NOMINATIONS

Executive nominations received by the Senate September 5, 1974:

DEPARTMENT OF DEFENSE

Will Hill Tankersley, of Alabama, to be Deputy Assistant Secretary of Defense for Reserve Affairs, vice Theodore C. Marrs, resigned.

FEDERAL ENERGY ADMINISTRATION

Melvin A. Conant, of New York, to be an Assistant Administrator of the Federal Energy Administration (new position).

FEDERAL TRADE COMMISSION

Paul Rand Dixon, of Tennessee, to be a Federal Trade Commissioner for the term of 7 years from September 26, 1974 (reappointment).

DEPARTMENT OF STATE

John Sherman Cooper, of Kentucky, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the German Democratic Republic.

Kenneth Rush, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to France.

SENATE—*Friday, September 6, 1974*

The Senate met at 10 a.m. and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Two hundred years ago today, Benjamin Franklin arose in the First Continental Congress and moved that the Members engage in prayer. Responding to the invitation of the Congress, the Reverend Jacob Duche appeared the next day in ecclesiastical vestments, read the 35th Psalm and followed it "with a fervent prayer." Since that day, September 7, 1774, the sessions of the Congress have been convened with prayer. Let us pray today in the words of that first prayer in Congress:

"O Lord, our Heavenly Father, High and Mighty King of Kings, and Lord of Lords, who dost from Thy throne behold all the dwellers on Earth and reignest with power supreme and uncontrolled over all the Kingdoms, Empires and Governments; look down in mercy we beseech Thee, on these American States, who have fled to Thee from the rod of the oppressor, and thrown themselves on Thy gracious protection, desiring henceforth to be dependent only on Thee; to Thee, they have appealed for the righteousness of their cause, to Thee do they now look up for that countenance and support which Thou alone canst give; take them, therefore, Heavenly Father, under Thy nurturing care; give them wisdom in council and valor in the field; defeat the malicious designs of our cruel adversaries; convince them of the unrightness of their cause; and if they persist in sanguinary purpose, O, let the voice of Thy own unerring justice, sounding in their hearts, constrain them to drop the weapons of war from their unnerved hands in the day of battle!

"Be Thou present, O God of wisdom, and direct the councils of this honorable assembly; enable them to settle things on the best and surest foundation, that the scene of blood may be speedily closed; that order, harmony and peace may be effectually restored, and truth and justice, religion and piety prevail and flourish among Thy people. Preserve the health of their bodies and vigor of their minds; shower down on them, and the millions they here represent, such temporal blessings as Thou seest expedient for them in this world, and crown them with everlasting glory in the world to come.

"All this we ask in the name and through the merits of Jesus Christ, Thy Son, our Saviour. Amen."—The Reverend Jacob Duche, September 7, 1774.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 6, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, September 5, 1974, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE STATE OF THE ECONOMY

Mr. MANSFIELD. Mr. President, the first of the presummit economic meetings was held yesterday at the White House. The President, in convening that meeting, had the following to say: "The conference on inflation," the President said, "unites Republicans and Independents and Democrats in an election year against an enemy that doesn't recognize one political party from another."

Mr. President, as I have indicated, the first of the economic meetings preceding the summit meeting at the end of this month has taken place. A number of others will follow, with meetings to be held throughout the country to cover various aspects of the economic areas. From the reports I have received from the two Democratic senatorial members of yesterday's meeting, Senator PROXMIRE and Senator BENTSEN, they have been encouraging. However, as was to be expected—and this should surprise no one—the economists found themselves on all sides of the question about what should be done to halt inflation and turn it downward. It appears to me that the emphasis was on interest rates and an easing in the supply of credit available to business and consumers. That is the closest that the people in attendance could come to what could be considered a consensus. Certainly, they are matters which should be looked into and, in my opinion, comprise a reasonably good first step.

I was also pleased to note that the Secretary of the Treasury, William E. Simon, and the Chairman of the Federal Reserve Board, Arthur F. Burns, will be leaving tomorrow for an emergency meeting with the Finance Ministers of the leading industrial nations of the West and Japan. This fits in with my belief that the economic situation which confronts this country confronts the free world, as well, and that the need is for constant consultation and, hopefully, common decisions. We should always keep in mind the economic situation which confronts the free world.

For example, as of August 30, we find that France was suffering from a 15.6-percent inflation rate; the United Kingdom was 18 percent; Japan's was 25 percent; Israel's was 38 percent; and Italy's was 41 percent. Only three nations in the free world held inflation below the double-digit figure. They are West Germany, Luxembourg, and the Netherlands.

As far as our own situation is concerned, we are confronted with a 12 percent inflation rate; a 12 percent plus prime interest rate; a steadily increasing unemployment rate; a decrease in productivity between 5 and 6 percent under last year's; a lag in wages behind prices for the past 16 successive months; a decline in the stock market which amounted to $500 billion in losses since January 1973 in stocks held by 31 million stockholders. These facts and figures tell a story which must not and cannot be lost on the administration or the Congress, because it is to us jointly that the American people and, to a certain extent, the people of the free world look for guidance and relief.

There are some things which I believe

can be done; at least, they should be gone into thoroughly and considered on the basis of what their performances have been in the past and, hopefully, will be of use in the immediate future. They are as follows:

First. The restoration of wage and price controls on the same basis as in effect under phase II of former President Nixon's economic program, but updated to fit in with the present wage-price structure.

Second. Restoration of regulation W, which restrained consumer credit, by forcing more rapid repayment of an installment debt and a larger downpayment when credit is extended initially. This would discourage buying, and the continued repayment of debt already incurred will feed money into capital markets and help to depress the extraordinarily high interest rates.

Third. Give serious consideration to the so-called Brazilian index plan as it could be applied to wages, salaries, and taxes. What this proposes is, in effect, an escalator clause which would allow workers to at least remain even with inflation rather than being outstripped by it, as is the case today. A majority of the labor contracts have automatic cost of living clauses tied to wages, and social security retirees, civil service retirees, and military retirees have cost of living clauses which add to their retirement benefits periodically.

Fourth. We ought to reinstitute the Reconstruction Finance Corporation which would do the job for business in need, which it performed prior to and during World War II, as well as for a period after the war. Furthermore, it operated at a profit. It would be my belief that, instead of loans and/or subsidies to be legislated and appropriated by the Congress, as in the case of Penn Central and Lockheed, that it would be far better to recreate the RFC so that matters of this kind could come to them rather than to the Congress.

These are some simple suggestions which I think can be understood by all, which may or may not have merit, but which, at least, have the virtue of simplicity.

The ACTING PRESIDENT pro tempore. The Chair recognizes the distinguished Republican leader, the able and and distinguished senior Senator from Pennsylvania (Mr. HUGH SCOTT).

Mr. HUGH SCOTT. Mr. President, of course, if the outcome of the economic summit warrants it, Congress should stay in session for the purpose of acting upon measures which either the congressional leadership or the executive feel are necessary to advance the fight against inflation. As I see it, there is no purpose whatever in our coming back unless we intend to do something about it. By "intend," I mean just that. Unless the Ways and Means Committee of the other body is prepared to introduce tax reform legislation with some additional compassion for the lower income and middle-income people, perhaps, but with some recognition of the need for tax incentives to encourage industry and provide jobs for labor, unless the Ways and Means Committee will assure the public at large that they intend to do this or other necessary things if they come back, I see no reason for our meeting at that time simply to wring our hands or indulge in the general breast-beating.

With all due respect, what the leadership of Congress, through the majority, has failed to do for 38 years I do not think can be done in 3 months. With all due respect, I just do not see how it can be done. If there have been solutions lying around all this time, why have we not resorted to them? Why have there been such strenuous efforts to oppose impoundment of funds which the Executive feels were not needed? The success in the courts in releasing those funds added to inflation.

Mr. EAGLETON. Will the Senator yield on that point?

Mr. HUGH SCOTT. Not at this time. I am going pretty well.

Why have there been so many successive vetoes overridden? Why, indeed, have those who have started the fire been so unwilling to call out the Roman fire department? Fiddling is fun, but fiddling does not get us results.

I must say I think some of the suggestions of the distinguished majority leader certainly ought to be very carefully looked into. The Reconstruction Finance Corporation was one of the few Latin agencies which proved to be fiscally literate. Introduced by President Hoover, that much-maligned man, it has lasted through a number of administrations, and went out with a great record. Maybe there is something to be done along the lines of the RFC.

I should not want to compete with the services being held in the rear of the Chamber.

The ACTING PRESIDENT pro tempore. Let us have order in the Senate, please.

Mr. HUGH SCOTT. I am sure more is being accomplished back there than we have accomplished on the floor for some time.

Mr. PASTORE. I move for a point of order, Mr. President.

Mr. HUGH SCOTT. If the Senator wishes to make a point of order, I have no idea what he wishes a point of order on.

Mr. PASTORE. I just want quiet so that we can hear you.

Mr. HUGH SCOTT. Since the Senator has been contributing to the confusion, I am delighted that he——

Mr. PASTORE. I am just listening. I talk so people can hear me.

Mr. HUGH SCOTT. Confusion is free and should be shared.

Mr. PASTORE. That is right.

Mr. HUGH SCOTT. I do, therefore, hope that something will come out of this summit conference, where we have contributed the talents of some 40 Senators in these various meetings that will take place, and where the best brains of the economic community are being summoned for ideas. I think the honest thing to do is to say that nobody really knows how to defeat inflation yet; therefore, the challenge demands that we find a way to do it.

Other nations have not done it, and Brazil, which was called a miracle, has now moved over with the rest of us to the double digit inflation company.

So I would like to see things done, but I do not want us to come back here simply as an exercise in negativism, to a situation which means that this body has to sit on its hands waiting for the Ways and Means Committee of the other body to move initially, as the Constitution requires.

So, let us see what we can do. It is time to stop fiddling while Rome burns, and if Rome is burning, we have to think of measures by which we can call out the fire department, increase—if we need to—the number of firemen, and support the means of putting out the blaze. We are all for that, and I hope we can do it.

Mr. EAGLETON. Will the Senator yield for a question?

Mr. HUGH SCOTT. I yield.

Mr. EAGLETON. I should like to ask a question of the Senator from Pennsylvania. I have listened with great interest to his remarks, and I should like to zero in on the impoundment matter of which he made specific mention.

The Senator from Pennsylvania is a 'Philadelphia lawyer" in the most noble sense of that term. He must know, and I am sure he does know, that the principal contention of the Congress with respect to President Nixon's impoundments was that he was acting illegally in impounding various funds. Indeed, it was more than subjective conjecture by the Congress. Every court that had occasion to rule on this matter ruled adversely to President Nixon's viewpoint on impoundment. Indeed, the executive branch refused to appeal any case by the certioari route to the Supreme Court of the United States.

I daresay the distinguished minority leader is interested in the rule of law and that the laws be observed. That is what many of us in Congress were trying to accomplish in challenging these impoundment actions. We sincerely believed that the President was acting without the benefit of the law and in an autocratic manner. I know that the distinguished minority leader believes in the rule of law. Is that not correct?

Mr. HUGH SCOTT. The Senator from Missouri is entirely correct. I thank him for the free commercial directed to me as a Philadelphia lawyer. I wish he had added, "and a good one."

Mr. EAGLETON. I said a "noble" one, which is even better than "good."

Mr. HUGH SCOTT. I thank the Senator.

My point is not that we should not have made it at all. My point was to point out that the law was used to spring the money loose, and there is another way of doing it. The other way of doing it is the opposite of what we are doing in Congress.

The Congress would have put clauses in the law which provided that the President, whoever he may be, cannot impound these funds. I would rather see us put clauses in that if the money is not needed in some part of this country or the world, the President can impound those funds. Congress is so jealous of its authority that it is doing the reverse and thereby encouraging inflation.

Mr. EAGLETON. Does not the Senator think, under the Constitution, that it is very clear that the power of the purse belongs to Congress? Further, that we cannot delegate by statute that which is constitutionally mandated for us to do?

Mr. HUGH SCOTT. All I can say is, the power which can give it to the President is also the power which can give it conditions. It can say, "So much money is appropriated; the President does not need to spend it all unless authority is shown." He can make that statement to Congress; that is perfectly constitutional.

There is not a cent spent in this country by the Federal Government that is not approved by Congress, and since we have approved all these hundreds of thousands of millions of dollars, up into the billions now, it seems to me that we cannot avoid a considerable part of the blame for inflation. That is all I am saying.

Let us not try to create an impression in this country that Congress did not do it. I think Congress has a lot to do with it. The executive has its faults, too, but we did a lot of this spending. Every time we positively say we are going to give our constituents millions of dollars, we are also saying we are going to take it away from someone. That is all I am saying.

I am sure the Senator from Missouri, who is a very distinguished lawyer, understands the point I am making, and he and I are both filled with all the virtue which we can command with regard to the people's interest. I am only explicating it a bit, that is all.

Mr. EAGLETON. I think I understand what the distinguished Senator is saying. By the same token, with his fertile and agile mind, I believe he understands what I am saying.

So let us do what we can to dispel false impressions. One very false impression was that President Nixon was acting very nobly in impounding funds, when in fact he was acting illegally. Let us not immortalize illegality. President Nixon declined to take any of the several cases to the Supreme Court on the question of impoundment. Why did he not go to the Supreme Court? I find it singularly interesting that he did not take a single impoundment case to the Supreme Court.

I do not want to enshrine illegality, and I am sure the Senator from Pennsylvania does not, either.

Mr. HUGH SCOTT. I understand perfectly what the Senator is saying. He is only making the point, I think, that we must all abide by the law, as the President did when he accepted the Court decisions without pushing further appeals. But his actions were not illegal until the courts said they were illegal; therefore, the President was not acting illegally, he was acting within what he thought were his constitutional responsibilities, as President Johnson did and other Presidents have done, on impoundment. When the court said, "You cannot do it," he could not do it, and he did not.

All I am saying is, why does not Congress share that? Why does not Congress say to the President, "If you do not need to spend the money, then do not spend the money in that fiscal year."

Mr. President, I yield the floor.

Mr. PASTORE. Mr. President, will the Senator yield?

The ACTING PRESIDENT pro tempore. The time of the Senator from Pennsylvania has expired.

Mr. PASTORE. Do I understand that the Senator from Montana has time available?

Mr. MANSFIELD. No, we are in morning business now.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore (Mr. ALLEN). Under the previous order, there will now be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited to 5 minutes each.

THE STATE OF THE ECONOMY

Mr. PASTORE. Mr. President, I did not intend to get into this debate, but I think something needs to be said. I think we at this time are accomplishing very little with recriminations. Let the past be the past, and let us get on with the future.

This situation is quite desperate, Mr. President. Prices are going up every day. There is not an article that you can buy in any food store today that did not cost less yesterday and will not cost more tomorrow. Profits are astronomical on the part of certain businesses, and yet at the same time this country is faced with this inflationary spiral that is eating up the very fiber of our society.

I have been in the supermarkets, Mr. President. I do not know whether or not any other Senator goes to a supermarket, but I have been to the supermarkets, and I have seen elderly couples who have to live on $200 a month pick up a piece of meat, rump steak, and they have to put it down, because they cannot afford to buy it. People cannot buy hamburger any more. They are eating frankfurters if they can afford them. And I am sorry to say that some people are eating dog food because they cannot afford to buy anything else. Something needs to be done, not tomorrow. Something needs to be done right away. This idea that the President says nothing will be done until next year, I cannot buy that. I cannot subscribe to that.

There is an imminence that is impending not only upon the administration, but upon Congress, and that is what the majority leader has been saying all along. He is concerned about this. We are all concerned about it, and I think what we ought to do is stop the rhetoric and begin action. That is really why the majority leader said that if it is important for us to stay here until Christmas, let us stay until something is done.

The President says, "I have a plan." We have not heard the plan yet. We want to give him all the credit possible, and we want to give him all the cooperation possible, but at the same time, the people of this country want some results.

We talk about cutting down the budget. Yes, we have dedicated ourselves to reducing it from $305 to $295 billion. I hope that will help. But the minute we do that, we are going to put a lot of people out of work. The minute we do that, we are going to have a public service program which will cost us billions of dollars. I am afraid we are meeting ourselves coming down the hill.

We need to do things that have to be done. Here we are; we are going to spend in Europe $19 billion in this fiscal year. We have over 7,200 atomic weapons in Europe. We have France that is now a nuclear power, and we have Great Britain that is a nuclear power. Why do we have to be committed as much as we are committed in Europe? Why do we not save $5 or $6 billion there? I heard only the other day that the only industrial nation in the world that does not have a double-digit inflation is West Germany and they do not have an unemployment problem at all.

I was in Wiesbaden 2 years ago. I took my early morning walk, and there it was: I saw them breaking up a street. The only German in that crew was the foreman. Everybody else came from another country. They are importing help, and here we are; we cannot give our own people work. There is something wrong, and the American people are saying, "You are the Congress, you are the President, we have elected you; now, why do you not do something about it?" And we should.

We get all this razzmatazz about that we might try this or we might try that, that it will be to the middle of the road, it will be to the left, it will be to the right—just a lot of words, when what the people want is relief. Yes, the workers are asking for more money, because they want to keep up with the cost of living.

The minute they get more money, the profits go up again, the cost goes up again, and I have been in the market, Mr. President, and seen where they have one price tag pasted over another price tag pasted over another price tag. The public is being gouged, and what we need to do is get the Justice Department off its haunches, to begin to investigate the oil companies, to begin to investigate the profiteers, and to make sure that the burden is equally shared by all Americans

We have rich people in this country who pay less taxes than you and I do. I am interested to know how much taxes Nelson Rockefeller pays. If he paid less than I did, and I have to wait for my paycheck at the beginning of the month to meet my monthly bills, if he paid less than I did, you can bet your bottom dollar he is not going to get my vote. He will have to show me that he paid his share of the taxes, and that will be my test.

Mr. President, I want to congratulate the majority leader, who is a dedicated man and does not rise up just for the sake of rising up. There is no frivolousness about Senator MANSFIELD. He is disturbed about this. They say they have a plan; he wants them to come up with answers, and he says, "If you do, we will stay here morning, noon, and night and even on our holidays, to make sure that the American people get relief."

I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Missouri is recognized.

Mr. EAGLETON. Mr. President, I seek recognition on another subject matter, but I cannot resist adding an addendum to the remarkably cogent remarks of my colleague from Rhode Island.

I, too, wish to pay tribute to the distinguished majority leader for his very

candid and forthright statement of yesterday and the position that he has taken. His position is not merely the position of a majority leader of a political party, but it is the position of a statesman speaking about and of this country in a time of crisis.

When he says we are prepared to stay here until Christmas, I agree with him. Whatever needs to be done legislatively we will do. We will stay as long, as patiently, and as enduringly as the human equation will permit.

Similarly, I want to jon in the remarks of the Senator from Rhode Island with respect to our commitments overseas, specifically his reference to West Germany, the only major world power that is experiencing less than double-digit inflation.

I know not whether the Senator from Rhode Island was on the floor 2 weeks ago when we were debating my amendment to the military appropriation bill. I am not here to "redebate" that debate, but I will recall to my friend one statistic from that debate. It bears on the subject of our commitments around the world.

Mr. President, do you know, and does my friend from Rhode Island know, how many civilian employees there are of the Defense Department? I emphasize "civilian," not uniform personnel. I was back in Missouri over the 10-day recess, and I asked this same question in a rhetorical form before various audiences. The highest guess I got out of an audience was 200,000. Somebody said, "I will make you a wild guess, I will bet you they employ 200,000 civilian employees."

Well, that guesser could not have been more wrong, Mr. President. They employ seven times that many. The Defense Department employs 1,400,000 civilians. If my memory does not fail me, 1,400,000 is larger than the population of about 15 of our States. I know it is larger than the population of Montana; I know it is larger than the population of Rhode Island; I know it is larger than the population of Delaware; and the Dakotas, Wyoming, Alaska, Idaho, and other States. That is how many civilians they employ here and around the world—1,400,000.

I am not recommending, nor would the Senator from Rhode Island, that we precipitously chop off the head of every civilian employee of the Department of Defense. However, there is a thing called attrition. There are vacancies caused by death and retirement.

For instance, if there are today 12 bartenders at the Officers' Club at Andrews Air Base, were one of them to die, would we have to fill that vacancy? Could they not make do with 11 bartenders? Would we not be as safe in our beds at night if the martinis flowed a little more slowly with only 11 bartenders?

In the PX's around the world, do we have to have as many civilian clerks and checkout tellers? Could we not make do with a few less?

Do we need 1,400,000 civilian employees?

Have you ever been out to the Pentagon, Mr. President, and tried to get into the front door at 5 o'clock? It is like the thundering herd of the Osage. You take your life in your hands. Such a mass of humanity comes out of there that you had better wear football pads and a helmet, because your life is in danger, so thunderous is the massive exodus from the Pentagon at the quitting hour.

So there are places we can cut. There are places we should cut. With respect to our commitments overseas, I am sure the Senator from Rhode Island is aware of the difficulty the wives of our servicemen experience in trying to get employment. When the servicemen wives try to get a teaching position in the schools, they cannot get it.

We send our men there to defend Western Europe, defend their freedom, and when the wives of these men try to get jobs, it is darned tough.

Mr. PASTORE. It is not only tough, but we have an agreement with the German Government that we just will not do that.

Mr. EAGLETON. We will not do that.

Mr. PASTORE. That is how stupid we can get.

Mr. EAGLETON. Yes, indeed, how stupid can we get.

Mr. PASTORE. We have an agreement with them that if they need any civilian help, it has got to be German help.

Mr. EAGLETON. German, Yugoslavian, or Italian or any other country except the United States.

As the Senator points out, they have about 2 million foreign workers in West Germany at this time from Yugoslavia, Italy, and other countries. I will not belabor the point. Suffice it to say, there are many places where the budget can be cut. That is Congress' role, and we should exercise it. We do not have to wait for the minisummit, the maxisummit, or the supersummit. We can do something here and now to make a beginning.

We realize that there is no easy answer. There is no instantaneous, aspirin tablet-like cure for our grave economic ills. There is no politician nor an economist who has the instant, easy answer. However, we can make some beginnings in cutting out some of this stupid waste.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The time of the Senator from Missouri has expired.

Mr. EAGLETON. Mr. President, will the Senator yield me 2 minutes?

Mr. MANSFIELD. Mr. President, I seek recognition.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. MANSFIELD. I yield my time.

The ACTING PRESIDENT pro tempore. The distinguished Senator is recognized for 5 minutes.

OIL EXECUTIVE SALARIES SOAR

Mr. EAGLETON. Mr. President, one of the most important factors in today's inflation is the increasing cost of fuel. In the past year, the price of petroleum products rose by more than 50 percent. Together food and fuel accounted for almost two-thirds of 1973's inflation. This year the increases will be even greater.

In an effort to come to grips with the inflation problem, the President has urged restraint by all sectors of the economy, beginning with major cutbacks in the Federal Government's own spending, and I support that effort.

But while the American worker is exhorted to go slow on his wage demands, there appears to be little spirit of self-sacrifice among the ranks of the oil companies' top executives.

In its annual survey of executive compensation, Business Week, May 4, 1974, reports that during 1973 top oil company executives received an average 20.9 percent increase in their total pay packages.

Listed as the 10th highest paid executive in the country is the chairman of Exxon whose total individual compensation for 1973—hear this, Mr. President, was $620,766—that is the chariman of Exxon, $620,766, a little, tiny increase over the year before, they gave him a little nudge, $81,600 increase for good measure.

Mr. PASTORE. Was that not for the rise in the cost of living?

Mr. EAGLETON. Yes, I presume so.

Mr. PASTORE. It was for a rise in the cost of living. [Laughter.]

Mr. EAGLETON. He was having market basket problems.

Mr. PASTORE. That is right.

I read in the newspaper that one of the top executives of this country, who makes three-quarters of a million dollars a year, was given an increase for the rise in the cost of living.

Mr. EAGLETON. I do not know whether the chairman of Exxon shops in the same supermarket as the Senator from Rhode Island, but I believe that when he looks at rump steak, he buys the whole rump.

By the way, these salary figures of the man from Exxon do not include the multiple fringe benefits enjoyed by most top executives, such as stock options, company savings plans, and dividends, and the like.

All right. Ranking 13th—the Exxon man was 10th—among all the executives in 1973 was the chairman of the Board of Mobil Oil whose individual compensation was $530,009, and he got an increase of $75,000—on a cost-of-living basis, I guess, over 1972.

Then there are other increases reported in this Business Week article, and I ask unanimous consent that all of these salary increases be printed in the RECORD at this point.

There being no objection, this list was ordered to be printed in the RECORD, as follows:

Oil company	1973 salary	Other payments	1972 salary	Other payments
Cities Service Co.:				
Robert V. Sellers, chairman	$185,573	$45,800	$137,660	----------
Charles J. Waldelich, president	150,373	37,100	119,326	----------
Exxon Corp.:				
J. K. Jamisson, chairman	401,886	195,000	364,166	$175,000
C. C. Garvin, Jr., president	275,000	120,000	222,916	105,000
Gulf Oil Corp.:				
B. R. Dorsey, chairman	300,000	190,000	250,000	95,000
James E. Lee, president	171,666	95,000	184,000	67,500
Mobil Oil Corp.:				
Rawleigh Warner, Jr., chairman	287,667	212,000	260,000	195,000
William P. Tavoulares, president	235,000	155,000	210,000	140,000
Phillips Petroleum Co.:				
W. W. Keeler, chairman	105,593	----------	300,000	42,000
John M. Houchin, chairman	274,038	58,510	250,000	35,000
W. F. Martin, president	190,968	45,640	164,480	23,100
Shell Oil Co.:				
Harry Bridges, president	$240,000	$125,000	$225,000	$100,000
J. B. St. Clair, executive vice president	143,340	60,000	129,996	50,000
Standard Oil Co., of California:				
Otto N. Miller, chairman	450,000	28,432	275,000	24,620
J. E. Goslino, vice chairman	201,987	18,680	200,000	17,833
H. J. Haynes, president	200,000	20,591	200,000	17,833
Sun Oil Co.:				
Robert G. Dunlop, chairman	168,877	93,800	166,600	84,000
H. Robert Sharbaugh, president	140,354	70,000	135,601	56,000
Texaco, Inc.:				
Maurice F. Granville, chairman	266,752	6,966	212,450	5,664
John K. McKinley, president	171,245	4,764	145,810	4,152
Union Oil Co. of California:				
Fred L. Hartley, president	223,333	71,250	210,000	41,500
Charles F. Parker, senior vice president	116,000	18,700	112,333	25,575

Mr. EAGLETON. In conclusion, Mr. President, I say this: Considering the profits of nearly $2.5 billion realized by Exxon in 1973, and $849 million by Mobil, these executives may think they are worth such salaries to their companies. But I think the American consumer has a right to question how well he, the American consumer, is being served by this use of his fuel dollar.

I yield the floor.

THE STATE OF THE ECONOMY

Mr. MANSFIELD. Mr. President, I am delighted that we are having some discussion on the economic situation, and also that it is being looked on not as a political matter but as a matter of national significance and importance which affects all of our people.

If the present inflationary rate of 12 percent a year continues it will take in less than 9 years twice as much money to buy what that money will buy today. It is just a case of arithmetic. Multiply 12 percent by 9 and you reach 108. So that is one of the reasons why prices are outstripping wages and savings and making it difficult for the American people, one reason why there is a need for action now.

There has been some talk about reducing the budget, which I think when it was sent up by President Nixon amounted to roughly $305 billion.

I just happen to see in this room two chairmen, the chairman of the full Senate Appropriations Committee and the chairman of the Subcommittee on State, Commerce, and Justice.

The distinguished Senator from Rhode Island reduced his area of appropriation responsibility by 3.5 percent—3.5 percent.

The distinguished chairman of the full Appropriations Committee, the Senator from Arkansas (Mr. McCLELLAN), reduced the defense appropriation bill by $5.1 billion, or roughly 6 percent.

There will be other reductions in other subcommittees which will be approved by the full committee and the Senate as a whole.

So I do not think we ought to consider just a $5 billion reduction to get down just under $300 billion. I think we ought to go toward $10 billion and, in the meantime, we ought to be very careful of the type of legislation which we authorize which in time calls for appropriations.

So I think the Senate has done well. I hope that the trend inaugurated by these two committee chairmen will continue.

I would point out that as of now we are below the $300 billion figure, as far as the Senate is concerned, and I would hope there would be a minimum of compromising in conference, so that differing amounts between the two Houses can be split down the middle.

I mentioned Western Europe and Japan, but one place I did not mention, to indicate just how worldwide inflation is, is Latin America, a part of our own area and a part of this hemisphere.

In the past 5 years alone, consumer prices in a number of South American countries have increased by these percentages:

Chile, 5,652 percent—it is unbelievable, it sounds like Germany at the end of World War I. Uruguay, 549 percent. Argentina, 332 percent. Brazil, 151 percent. This is a 5-year period. Colombia, 101 percent. Bolivia, 85 percent. Ecuador, 70 percent. Paraguay, 63 percent. Peru, 51 percent. Venezuela, 19 percent.

So we see that it is not a local problem, it is not an American problem. It is a worldwide problem as far as the free world is concerned.

It does not apply to the Communist countries where they have an enforced standard of living and wages which are controlled along with prices and all the other commodities involved.

REPORT OF A COMMITTEE

The following report of a committee was submitted:

By Mr. CRANSTON (for Mr. RANDOLPH), from the Committee on Labor and Public Welfare, with an amendment:

S. 3108. A bill to amend the Rehabilitation Act of 1973 (Rept. No. 93-1139).

ORDER FOR THE COMMITTEE ON LABOR AND PUBLIC WELFARE TO SUBMIT A REPORT ON S. 3108 UNTIL MIDNIGHT TONIGHT

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare be authorized to submit a report on S. 3108, a bill to amend the Rehabilitation Act of 1973, until midnight tonight.

The PRESIDING OFFICER (Mr. INOUYE). Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. PELL:

S. 3969. A bill to provide for a study of the feasibility of allowing individuals, during their working years, voluntarily to make additional contributions to the social security program established by title II of the Social Security Act and during retirement receive additional social security benefits based on such additional contributions. Referred to the Committee on Finance.

S. 3970. A bill to provide certain reduced rate rail, air, and urban and rural mass transportation for persons 65 years of age or older. Referred to the Committee on Comemrce.

By Mr. DOLE:

S. 3971. A bill to amend title 38, United States Code, to increase the rates and income limitations for payments of pension to veterans and their widows, and for other purposes. Referred to the Committee on Veterans' Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PELL:

S. 3969. A bill to provide for a study of the feasibility of allowing individuals, during their working years, voluntarily to make additional contributions to the social security program established by title II of the Social Security Act and during retirement to receive additional social security benefits based on such additional contributions. Referred to the Committee on Finance.

RETIRED HOMEOWNERS PROTECTION TRUST FUND STUDY ACT

Mr. PELL. Mr. President, one of the great tragedies of our inflationary age occurs when a retired homeowner finds that he must sell his home because he cannot keep up payments on a continuing mortgage, increased property taxes, or high maintenance costs. Often this happens because the retired homeowner faces unexpected retirement expenses far above what he had planned for, and perhaps as a consequence of illness or other catastrophic income-draining emergencies.

Today I am introducing legislation which calls for a study of one possible means of avoiding heartbreaking loss of homes by the elderly retired. I propose a study to assess the practicality of allowing individuals covered by social security to make voluntary additional contributions to a retired homeowners protection trust fund. During retirement, these persons could then be eligible for sufficient benefits from the fund to guarantee them against loss of their home caused

by an inability to pay continuing property taxes, maintenance costs, and the like.

I believe that this potential solution is worthy of serious study, and therefore I have drafted the Retired Homeowners Protection Trust Fund Study Act, calling for the Secretary of Health, Education, and Welfare to conduct such a study, and report the findings, with his recommendation for appropriate legislative action, to the Congress.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3969

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Health, Education, and Welfare is directed to conduct a study with a view to determining the feasibility of modifying the program established by title II of the Social Security Act so as to permit individuals who are covered under such program voluntarily to make additional contributions thereto and receive additional benefits thereunder during retirement, thereby providing the means of meeting home mortgage and real property tax payments and similar expenses which they will incur during their retirement years.

(b) The Secretary of Health, Education, and Welfare shall, not later than one year after the date of enactment of this Act, complete the study authorized by subsection (a) and shall submit to the Congress a full and complete report thereon together with his recommendations for such legislation as he may deem appropriate in light of the findings resulting from such study.

By Mr. PELL:

S. 3970. A bill to provide certain reduced mail rate, air, and urban and rural mass transportation for persons 65 years of age or older. Referred to the Committee on Commerce.

SENIOR CITIZENS REDUCED RATE TRANSPORTATION ACT OF 1974

Mr. PELL. Mr. President, today I am introducing the Senior Citizens Reduced Rate Transportation Act of 1974, which will provide reduced rate transportation for elderly persons traveling on rail, air, and bus lines which receive Federal financial support for their operations.

I have always believed that the mobility problems of the elderly constitute a particular problem, in that retirement should be a time of life in which transportation, both for the necessities of life and for pleasure, becomes more important and yet inevitably more difficult.

We cannot expect elderly persons, living on a fixed income, to be able to afford to be mobile if we do not assist them in every way we can. The legislation I have introduced today will help to meet the two different transportation needs of many elderly Americans: short-distance travel, primarily bus and rail-oriented. and long-distance air and rail services.

This legislation will reduce the rates which persons age 65 and over pay for federally subsidized rail and bus transportation by 75 percent. It will reduce the rates for federally subsidized air transportation by 66⅔ percent.

There is no doubt in my mind that this legislation would provide many needed benefits for the elderly, and I would hope that it receives serious consideration in this session of the Congress.

Mr. President, I request unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3970

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Senior Citizens Reduced Transportation Act of 1974".

RAIL TRANSPORTATION

SEC. 2. Title IV of the Rail Passenger Service Act of 1970 is amended by inserting at the end thereof the following:

"REDUCED RATE TRANSPORTATION FOR THE ELDERLY

"SEC. 406. Effective for fiscal years beginning after June 30, 1974, the Corporation shall not receive any financial assistance pursuant to this Act unless it provides rail transportation for persons 65 years of age or older at not to exceed 25 per centum of the regular charge for such transportation."

AIR TRANSPORTATION

SEC. 3. Title IV of the Federal Aviation Act of 1958 is amended by inserting at the end thereof the following:

"REDUCED RATE TRANSPORTATION FOR THE ELDERLY

"SEC. 418. Effective for fiscal years beginning after June 30, 1974, no air carrier shall receive any payment determined pursuant to section 406(b)(3) unless it provides air transportation furnished by such carrier for persons 65 years of age or older at not to exceed 33⅓ per centum of the regular charge for such transportation."

URBAN AND RURAL MASS TRANSPORTATION

SEC. 4. Effective for fiscal years beginning after June 30, 1974, no applicant for Federal financial assistance for an urban or rural transportation system pursuant to (1) subsection (a) or (c) of section 142 or section 103(e)(4) of title 23, United States Code, (2) the Urban Mass Transportation Act of 1964, or (3) section 147 of the Federal Aid Highway Act of 1973, shall receive such assistance unless it provides transportation furnished by such system for persons 65 years of age or older at not to exceed 25 per centum of the regular charge for such transportation.

SEC. 5. Transportation vouchers purchased under sections 2, 3, and 4 of this Act shall not be valid for transportation between the hours of 9 a.m. until 9 p.m. on Friday, and 9 a.m. until 9 p.m. Saturday.

By Mr. DOLE:

S. 3971. A bill to amend title 38, United States Code, to increase the rates and income limitations for payment of pension to veterans and their widows, and for other purposes. Referred to the Committee on Veterans' Affairs.

VETERANS PENSION IMPROVEMENT BILL OF 1974

Mr. DOLE. Mr. President, there has been a great deal of talk both in and out of Congress in recent months about providing special assistance to the large number of our senior citizens who are suffering greatly from the effects of inflation. Today, I am introducing a measure which would actually do something to assist over 2 million of those senior citizens. A measure of this type is long overdue and I hope the Senate can act quickly on its passage.

RISING COST OF LIVING

In the past year, we have seen the cost of living, fuel expenses and other necessary expenses spiral at a drastic rate. The impact of these spiraling living expenses has been greatest on those with fixed incomes, primarily our elderly veterans.

We have seen the cost of gasoline nearly double. We have seen the cost of propane more than triple, and propane is the primary heating fuel for many older veterans who live in rural areas in Kansas. The cost of food has gone up. The cost of nearly every item an elderly veteran must purchase has skyrocketed.

Yet the incomes of veterans and their beneficiaries and the widows of veterans have remained at the same level. The Congress has been preoccupied with numerous issues, but there is no doubt in my mind that an increase in the pensions for these deserving veterans is long overdue. We need to act promptly so that an increase can be provided before the end of the 93d Congress this year.

PENSION INCREASE

The bill I am introducing would provide a substantial offset to the tremendous rate of inflation of the past year by providing an increase of 10 percent in all pensions. This level of increase is the bare minimum necessary to offset the rising costs that these senior citizens have been forced to meet in the past year.

As the President and numerous economic experts have indicated, we must work hard to control inflation. At the same time, particular areas of our economy may need special assistance. The veterans of World War I and earlier conflicts are among those who need special assistance.

They have earned a fair pension. In the especially severe conditions of earlier wars, they faced an unusually hard task in serving their country. In my opinion, we owe this 10-percent pension increase to them as a minimum starting point.

EQUALITY FOR WIDOWS

Mr. President, it costs as much for a widow to live as it does for a single veteran. This simple fact should be obvious. Yet we see that under the present system, the pension for widows is less than two-thirds of that provided a single veteran.

I believe that this obvious inequity should be ended immediately. My bill would accomplish this by making the pension for a widow equal to that for a single veteran. Such a measure is totally justified. As I stated before, it costs a widow as much to live as it does a single veteran. In addition, the widows of veterans served their country together with their veteran husbands. The wives of former soldiers suffered the anguish of having their husbands across the sea fighting for their Nation. The widows of veterans have had to work especially hard and have suffered the inequities resulting from the gap in the veteran's career from the time he spent serving his Nation.

Mr. President, the discrimination against widows should stop immediately. The junior Senator from Kansas hopes that the Senate and the House of Repre-

sentatives will act promptly on this measure I introduce to resolve this inequity.

OFFSET SOCIAL SECURITY INCREASES

A matter of great concern to veterans and their beneficiaries alike has been the decline in veterans pension when social security payments increase. Veterans who served their country loyally and faithfully have rightfully earned their pension. Pension is a reward for that service, and after all these years when veterans are beginning to enjoy the pensions provided by their Government, it is especially disturbing to see their pensions reduced when social security and other sources of income increase. Many have grown dependent upon their pension income and the loss or reduction of it is especially painful.

My bill resolves this matter by increasing income limitations by $500. This increase would prevent the distress and difficulties that have resulted from pension cuts following social security increases. At the same time, my bill stays within the long-establihsed policy set by Congress that pensions should assist those most in need.

We are presently looking at another social security increase in January of the coming year. Without enactment of my measure, a further reduction in veterans pensions will undoubtedly occur. Enactment of my bill this year would prevent this reduction in pensions. The need for this bill is clear and it is evident that we need to act quickly on its passage.

COST OF LIVING INCREASE

Many veterans and widows of veterans have been penalized by the slow actions of Congress. The cost of living, as I noted earlier, has risen sharply since the last increase in pension rates. An increase is more than justified, yet the Congress has not acted to increase pensions. My bill would prevent this from happening in the future by providing for an automatic cost-of-living increase. This provision would prevent pensioners from suffering because of slow action by the Congress.

My bill resolves the problem of lags in pension increase with a cost-of-living escalator. The cost-of-living escalator would automatically increase pensions every June according to the rise in the cost of living as determined by the Secretary of Health, Education, and Welfare. This provision is parallel to a similar measure in the Social Security Act. It is logical that increases provided to social security should also be provided to pension.

This provision would prevent the drop in purchasing power which pensioners have suffered because of inflation and because of delays in pension increases by Congress. In future years, when Congress becomes bogged down in other issues and fails to make appropriate increases in veterans pensions, veterans will be able to continue receiving a fair and equitable pension.

Mr. President, hundreds of veterans have contacted me by mail and I have talked with many others who express the need for improved pension benefits. I have here a few representative letters which express the difficulties and the needs of veterans. I request unanimous consent that these letters be inserted in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEAR SENATOR DOLE: Seems like I have read that the D.V.A.'s have had their income limit lifted. Why can't the same be done for World War I veterans? As I have lost my veterans pension, all the income I have is a small retirement check that pays my rent and my social security check with which I pay on all outstanding bills, utility bills and grocery bill. Please see what you can do about this.

FRED L. BHOUTEAU.

INDEPENDENCE, KANS.

DEAR MR. DOLE: I received the Congressional Record of veterans affairs and I think it is a very good thing. I am glad they are doing something for us veterans.

There is another thing that should be done to help and that is to raise the income limit that we get. I got a small increase in my social security and if there isn't something done to raise the income limit on what we get on social security, they will take that much off my veterans check. If there isn't a bill in Congress to raise the limit on income then I would like for you to start the bill so it will save us veterans from a cut in our checks. I thank you for what you have done for us.

Mr. CECIL LONGMIRE.

PAOLA, KANS.

DEAR SIR: Received my veterans check this Friday a.m.—February 1st—in the amount of $75.96. I'm always glad to receive money from any source and am thankful for the receipt of the above check. I cannot, at the same time, refrain from expressing my deep disappointment at the amount.

Before the 20% social security increase of 1973, I was getting $86.10 from my vet pension. After receiving said 20% increase in social security, my vet check was reduced to $68.96. The check I received this a.m. is in the amount of $75.96, as stated above.

The receipt thereof was further coupled with the warning that the impending social security increase of 1974 will not be reflected in the further deduction of my vet check—until 1975. (This would be because of the income limitation not being removed).

I cannot understand the thinking involved by Congress in this matter. They obviously increase the social security and decrease the vet pension. (In making this statement, I'm sure I speak for thousands of other pensioners, similarly situated).

Cannot the "powers that be" devise some plan to remove this income limitation?

Am writing this in all good nature, but feel that an injustice has been done (perhaps unwittingly).

Am a W. W. 1 vet—age 84. Am dependent upon these two sources of income.

Thanks for reading this rather long letter.

Regards.

LOUIS D. BROCKETT.

TOPEKA, KANS.

SENATOR DOLE: Can't you do something about the wage limit for veterans widows on pension? A 50-year-old veteran's widow is only allowed $300 a year. A 65-year-old person on social security can make around $2,000 a year. I don't think that's quite fair.

If I were unable to work, I would have to go on welfare because the pension check would not even pay my rent. Please try to do something for us working widows.

Thank you.

HELEN J. WITZKE.

WICHITA, KANS.

DEAR SENATOR DOLE: I got the 7 percent increase in my April social security check and at the same time my pension from my husband's World War I service was decreased. Every time my social security is raised, I get cut down in my pension check. Therefore, I am reduced to almost poverty. I am still where I was at the first social security increase. The government is not helping me one cent. Please help the World War I veterans get their pensions.

Mrs. RUTH N. SHOOP.

FREDONIA, KANS.

SENATOR BOB DOLE: I am a widow. My husband was a W.W. I veteran. I have been receiving a veterans pension which the government has cut down to almost nothing on account of the interest to report on a small savings and including my social security check.

I rent and pay utilities. I think it is so unfair for us older people with such small incomes.

What little savings one has may be needed for nursing home or hospital. Who knows?

This may not be in your jurisdiction, Mr. Dole, but I think a widow should be allowed a larger deduction from the government. Thank you.

Mrs. ESTHER D. JOHNSON.

SALINA, KANS.

Mr. DOLE. Mr. President, the need for this legislation is clear. In my opinion, its passage should be one of the highest priorities of Congress. It is my intent to work for passage of improved pension legislation prior to the end of the 93d Congress this year. It is my hope that every Senator will serve the interests of their veteran constituents by joining me in this effort.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3971

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (b) of section 521 of title 38, United States Code, is amended to read as follows:

"(b) If the veteran is unmarried (or married but not living with and not reasonably contributing to the support of his spouse) and has no child, pension shall be paid according to the following formula: If annual income is $300 or less, the monthly rate of pension shall be $157. For each $1 of annual income in excess of $300 up to and including $800, the monthly rate shall be reduced 3 cents; for each $1 of annual income in excess of $800 up to and including $1,300, the monthly rate shall be reduced 4 cents; for each $1 of annual income in excess of $1,300 up to and including $1,600, the monthly rate shall be reduced 5 cents; for each $1 of annual income in excess of $1,600 up to and including $2,200, the monthly rate shall be reduced 6 cents; for each $1 of annual income in excess of $2,200 up to and including $2,500, the monthly rate shall be reduced 7 cents; and for each $1 of annual income in excess of $2,500 up to and including $3,100, the monthly rate shall be reduced 8 cents. No pension shall be paid if annual income exceeds $3,100.".

(b) Subsection (c) of such section 521 is amended to read as follows:

"(c) If the veteran is married and living with or reasonably contributing to the support of his spouse, or has a child or children, pension shall be paid according to the following formula: If annual income is $500 or less, the monthly rate of pension shall be $169 for a veteran and one dependent, $174 for a veteran and two dependents, and $179

for three or more dependents. For each $1 of annual income in excess of $500 up to and including $800, the monthly rate shall be reduced 2 cents; for each $1 of annual income in excess of $800 up to and including $2,200, the monthly rate shall be reduced 3 cents; for each $1 of annual income in excess of $2,200 up to and including $2,900, the monthly rate shall be reduced 4 cents; for each $1 of annual income in excess of $2,900 up to and including $3,300, the monthly rate shall be reduced 5 cents; and for each $1 of annual income in excess of $3,300 up to and including $4,300, the monthly rate shall be reduced 6 cents. No pension shall be paid if annual income exceeds $4,300.".

(c) Such section 521 is further amended by adding the following new subsection at the end thereof:

"(h) The rates payable under subsections (b) and (c) of this section shall be increased by such percentage as the Secretary of Health, Education, and Welfare shall certify in the Federal Register for social security recipients as a cost-of-living increase under section 215 of the Social Security Act, effective the same date as such latter increase.".

SEC. 2. (a) Subsection (b) of section 541 of title 38, United States Code, is amended to read as follows:

"(b) If there is no child, pension shall be paid according to the following formula: If annual income is $300 or less, the monthly rate of pension shall be $157. For each $1 of annual income in excess of $300 up to and including $800, the monthly rate shall be reduced 3 cents; for each $1 of annual income in excess of $800 up to and including $1,300, the monthly rate shall be reduced 4 cents; for each $1 of annual income in excess of $1,300 up to and including $1,600, the monthly rate shall be reduced 5 cents; for each $1 of annual income in excess of $1,600 up to and including $2,200, the monthly rate shall be reduced 6 cents; for each $1 of annual income in excess of $2,200 up to and including $2,500, the monthly rate shall be reduced 7 cents; and for each $1 of annual income in excess of $2,500 up to and including $3,100, the monthly rate shall be reduced 8 cents. No pension shall be paid if annual income exceeds $3,100.".

(b) Subsection (c) of such section 541 is amended to read as follows:

"(c) If there is a widow and a child or children, pension shall be paid according to the following formula: If annual income is $500 or less, the monthly rate of pension shall be $169 for a widow and one child, $174 for a widow and two children and $179 for three or more children. For each $1 of annual income in excess of $500 up to and including $800, the monthly rate shall be reduced 2 cents; for each $1 of annual income in excess of $800 up to and including $2,200, the monthly rate shall be reduced 3 cents; for each $1 of annual income in excess of $2,200 up to and including $2,900, the monthly rate shall be reduced 4 cents; for each $1 of annual income in excess of $2,900 up to and including $3,300, the monthly rate shall be reduced 5 cents; and for each $1 of annual income in excess of $3,300 up to and including $4,300, the monthly rate shall be reduced 6 cents. No pension shall be paid if annual income exceeds $4,300.".

(c) Subsection (d) of such section 541 is hereby repealed.

(d) Subsection (e) of such section 541 is hereby redesignated subsection (d).

(e) Section 541 is further amended by adding the following new subsection at the end thereof:

"(e) The rates payable under subsections (b) and (c) of this section shall be increased by such percentage as the Secretary of Health, Education, and Welfare shall certify in the Federal Register for social security recipients as a cost-of-living increase under section 215 of the Social Security Act, effective the same date as such latter increase.".

SEC. 3. This Act shall take effect on January 1, 1975.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2854

At the request of Mr. CRANSTON, the Senator from West Virginia (Mr. ROBERT C. BYRD) was added as a cosponsor of S. 2854, a bill to amend the Public Health Service Act to expand the authority of the National Institute of Arthritis, Metabolic, and Digestive Disease in order to advance a national attack on arthritis.

S. 3108

At the request of Mr. CRANSTON, the Senator from Wisconsin (Mr. NELSON) was added as a cosponsor of S. 3108, a bill to amend the Rehabilitation Act of 1973.

SENATE RESOLUTION 397—SUBMISSION OF A RESOLUTION RELATING TO THE ELIGIBILITY OF TURKEY FOR FURTHER MILITARY ASSISTANCE FROM THE UNITED STATES

(Referred to the Committee on Foreign Relations.)

Mr. EAGLETON submitted the following resolution:

S. RES. 397

Whereas section 505(d) of the Foreign Assistance Act of 1961 and section 3(c) of the Foreign Military Sales Act provide that any foreign country which uses defense articles or defense services furnished such country under either such Act in substantial violation of any provision of such Act or any agreement entered into under such Act shall be immediately ineligible for further assistance under such Act; and

Whereas the President of the United States in a 1964 letter to the Prime Minister of Turkey warned the Government of Turkey that the use of United States defense articles or defense services "for a Turkish intervention in Cyprus" would be contrary to Article IV of the July 1947 bilateral agreement between Turkey and the United States, which article requires Turkey to obtain the approval of the United States for the use of defense articles and defense services (furnished by the United States) for any purpose other than those for which such articles and services were furnished; and

Whereas the Government of Turkey has, since July 20, 1974, used defense articles and defense services furnished to that country under the Foreign Assistance Act of 1961 and the Foreign Military Sales Act for the purpose of intervening militarily on the island of Cyprus: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should immediately declare Turkey ineligible for further assistance under the Foreign Assistance Act of 1961 and ineligible for further cash sales, credits, or guarantees under the Foreign Military Sales Act and, in compliance with the provisions of such Acts, make no further military assistance available to such country under either such Act.

SEC. 2. The Secretary of the Senate shall promptly transmit a copy of this resolution to the President of the United States.

COPYRIGHT LAW REVISION—AMENDMENT

AMENDMENT NO. 1847

(Ordered to be printed and to lie on the table.)

Mr. INOUYE submitted an amendment intended to be proposed by him to the amendment proposed by the Committee on Commerce to the bill (S. 1361) for the general revision of the copyright law, title 17 of the United States Code, and for other purposes.

FEDERAL AID HIGHWAY AMENDMENTS OF 1974—AMENDMENTS

AMENDMENT NO. 1848

(Ordered to be printed and to lie on the table.)

Mr. STAFFORD. Mr. President, the amendment to S. 3934 which I am now sending to the desk and which I will propose when we consider the Federal-Aid Highway Amendments of 1974, would remove the prohibition, currently contained in the bill, against any State's deciding to impose a speed limit less than 55 miles per hour on certain roads. The committee frankly did not intend to restrain States permanently from imposing speed limits lower than 55 miles per hour, but in adapting language from the law imposing a temporary national speed limit we overlooked the need to eliminate that prohibition. My amendment would simply leave States free to lower speed limits where they find it desirable to do so.

I ask unanimous consent to have the text of my amendment printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1848

On page 17, line 19, beginning with the word "or", strike everything through the semicolon in line 1, page 18. On page 18, line 1, change "(3)" to "(2)". On page 18, lines 9 and 10, strike "clauses (2) and (3)" and insert in lieu thereof "clause (2)".

AMENDMENT NO. 1849

(Ordered to be printed and to lie on the table.)

Mr. STAFFORD. Mr. President, I am sending to the desk an amendment to S. 3934, the Federal Aid Highway Amendments of 1974, which I intend to propose when the bill comes to the floor next week.

My amendment would strike that section of the 1974 highway amendments which increases permissible axle and gross weights limits of trucks using the Interstate Highway System. I firmly believe that any weight increase at this time will result in bigger as well as heavier trucks on our highways, and I am greatly concerned that such increases mean greater safety hazards and accelerated bridge and road deterioration.

On August 20 the other body voted decisively, 252 to 159, to eliminate a very similar weight increase provision from its mass transit bill. I hope that when the question is considered in this Chamber, the reasons found compelling by a substantial majority of Members in the other body will convince my colleagues in the Senate to stand solidly against this new step toward bigger trucks.

Mr. President, I ask unanimous consent that the minority views of myself and the junior Senator from New York (Mr. BUCKLEY), contained in the report on S. 3934, and the text of my amendment, be printed at this point in the RECORD.

There being no objection, the material

was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1849

On page 8, beginning with line 2, strike all through line 21 on page 9, and renumber succeeding sections accordingly.

MINORITY VIEWS OF SENATOR STAFFORD AND SENATOR BUCKLEY

The Committee has recommended an increase in allowable weights of vehicles using the Interstate System to permit 20,000 pounds per single axle, 34,000 pounds per tandem axle, with gross weight determined by a formula, but in no case to exceed 80,000 pounds. We are opposed to such increases because we believe they will have a detrimental effect on highway safety, on the amenities of highway travel, and could hamper long-term efforts to rationalize our freight transportation system.

The Committee points out that the reported measure does not deal with truck dimensions, but only with weights. While this is an accurate characterization of the actual language, we do not believe it provides a complete picture of the provision's effect. The primary reason for increasing weight limitations is to permit trucks to carry heavier payloads. The 80,000 pound gross weight limit would increase current payload limits by 10 percent. But, as the Federal Highway Administrator noted in his testimony before the Transportation Subcommittee:

"Of course, such increases of this magnitude could not be obtained without increases in State-permitted lengths where the commodity is of low density, since full cubic capacity of the vehicle would be obtained before the weight limit was reached."

Thus, permitting heavier weights on the Interstate could, in our opinion, bring about pressures at the State level for increases in existing length limitations, in order to permit a larger segment of the trucking industry to take advantage of increased weight allowances.

The trend toward longer trucks has been steadily rising since 1946. A chart compiled by the Truck Trailer Manufacturers Association shows that in 1946 no trailers longer than 34 feet were being produced, and the majority were less than 26 feet long. In 1972, 32 percent of the trailers produced were 45 feet or more in length and 85 percent exceeded 40 feet. Add to this the fact that over 10 percent of the 1972 production was the 27-foot model that is often used in pairs, and the dramatic increase in the number of very large truck combinations becomes even more apparent. Length increases of one or two feet are almost imperceptible but the cumulative effect of numerous increases can be staggering. Virtually no studies have been carried out to test the effect of length increases on highway safety, but we believe that the widening gap between automobile and truck sizes must be considered a growing safety hazard to highway travel.

There is data to show that the increased vehicle weights proposed will result in increased pavement maintenance costs of approximately 20 percent and will accelerate requirements for bridge replacement. Also, in States which do not currently permit the heavier trucks to run on non-Interstate roads, the pressure will be to conform off-Interstate weight limits to those permitted on the Interstate System, thus raising serious questions about the safety of older bridge structures not designed to accommodate the heavy vehicles.

Finally, we are concerned about enacting weight increases for trucks at a time when efforts are underway to encourage greater use of railroads for long-haul, economical transportation of freight. It is generally agreed that the railroads are more efficient and economical for certain types of freight service than trucks. To take action now that could encourage a further shift of freight transportation from rail to trucks, despite the long-term advantage of rail use, seems to us ill-advised.

It is for the foregoing reasons that we oppose any increase in Federal truck weight limitations.

ROBERT T. STAFFORD.
JAMES L. BUCKLEY.

SCHEDULE OF HEARINGS BY THE SUBCOMMITTEE ON EDUCATION

Mr. PELL. Mr. President, yesterday, I introduced into the RECORD a schedule of hearings and oversight work for the Subcommittee on Education of the Senate Committee on Labor and Public Welfare.

The first hearings are scheduled for the 11th and 12th of next week and deal with the subject of accreditation. To many, this would appear to be an exercise in an academic esoterica, not one which goes to the very real problems facing higher education today. However, when one considers those problems—the high default rate on the guaranteed student loan program, the closing of both private, profitmaking and public, nonprofit-making institutions, with the resultant investment loss by students and, more important, the social cost of loss of confidence in the established postsecondary institutions of our country—one realizes that these problems revolve around the question of how our institutions of postsecondary education are accredited, how they are recognized for participation in the Federal programs.

Very often, higher education and its ills are discussed in a manner which, in the field of medicine, would be referred to as treating the symptom and not the cause; for example, recently, the Washington Post and the Boston Globe both published intensive, well-researched stories on the misuse of Federal and private funds and student loan programs and the resultant injury to students attending these postsecondary training institutions. While the cost to the Government in the payoff of defaults on the guaranteed student loan program and the damage to the individuals in not meeting their expectations are very real problems, the real reason why these alleged abuses may have developed grows out of the fact that the schools were accredited. That is why the first hearings will turn on this topic. What exactly is accreditation? Who is responsible for it? Is accreditation a closed corporation, with the same individuals who are doing the accrediting also running the schools? Has the Department of Health, Education, and Welfare fully utilized the powers granted it by statute to monitor the accrediting faction? Is the Department of Health, Education, and Welfare relying on private accreditation to do what is essentially a Federal function; that is, the designating of those postsecondary institutions which are eligible for participation in Federal programs?

Our first hearings will consist of 2 days, and I ask that a tentative witness list be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

TENTATIVE WITNESS LIST SUBCOMMITTEE ON EDUCATION HEARING ON ACCREDITATION

SEPTEMBER 11, 1974, WEDNESDAY, ROOM 1218—10 A.M.

The Department of Health, Education, and Welfare: Terrell H. Bell, U.S. Commissioner of Education; John Proffitt, Director, Accreditation and Institution Eligibility Staff; Charles M. Cooke, Jr., Deputy Assistant Secretary for Legislation (Education); Harold Orlans, Senior Research Associate, National Academy of Public Administration Foundation.

SEPTEMRER 12, 1974, THURSDAY, ROOM 4232, 10 A.M.

Panel Discussing Nonprofit Academic Accreditation: Frank G. Dickey, Ph.D., Executive Director, National Commission on Accrediting; Robert Kirkwood, Ph.D., Executive Director, Federation of Regional Accrediting Commissions of Higher Education.

Association of Independent Colleges and Schools: Dana R. Hart, Executive Secretary, Accrediting Commission; Richard R. Fulton, Executive Director.

Panel Representing the National Association of Trade and Technical Schools and the American Home Study Council.

Mr. PELL. Mr. President, in closing, I would point out that these hearings on accreditation are merely the beginning of our oversight investigation of postsecondary and higher education. With this background on accreditation, we will move into a discussion of the guaranteed student loan program. Those hearings will concern themselves not with the philosophy of the loan program itself, but with how it functions. What is the default rate? Where does the default rate lie, and how can it best be dealt with? We will be better equipped to draft legislation in the next Congress which will meet these very real problems if we are able to generate an in-depth hearing record as background.

ADDITIONAL STATEMENTS

PRESIDENT'S PROPOSAL TO DELAY PAY INCREASE FOR FEDERAL EMPLOYEES SHOULD BE REJECTED

Mr. ROBERT C. BYRD. Mr. President, in 1970, the Congress established a system whereby pay increases for Federal employees and military personnel are to be recommended annually by the Chairman of the Civil Service Commission and the Director of the Office of Management and Budget. This procedure was created in order to assure a reasonable, balanced, equitable judgment as to the need for Federal pay increases, and it was designed to do away with the previous system in which Congress was annually called upon to determine the size of such pay increases.

Under the new system, if the President indicates no opposition by September 1 to a proposal by the heads of the Civil Service Commission and OMB for a Federal pay increase, the recommended pay increase automatically goes into effect on October 1 of a given year. If the President expresses his timely opposition, the proposal does not go into effect unless either House of Congress enacts a resolution rejecting the President's proposal to delay such increases.

The last Federal pay increase went into effect in October 1973, and it amounted to a 4.77-percent increase.

Recently, the heads of OMB and the Civil Service Commission recommended a 5.5-percent increase for Federal workers to go into effect on October 1 of this year. It should be understood, of course, that the proposed pay increase does not include Members of Congress. President Ford, acting before the September 1 deadline, proposed that the pay increase be delayed until January 1, on the basis that such a delay would constitute a saving of $700 million. He also proposed a reduction of 40,000 in the number of Federal employees, such reduction to be accomplished by attrition—in other words, the jobs of persons who retire or resign will not be filled. The job reduction proposal was first made by President Nixon in July and Mr. Ford's proposal is a followup of former President Nixon's policy.

I support the proposal whereby 40,000 Federal jobs would go unfilled, this constituting a $300 million saving to the taxpayers. However, in my judgment, the proposal to delay a 5.5-percent pay increase to Federal workers and to military personnel is unjustified and unfair. Government statistics show an increase in the Cost of Living Index of at least 11 percent during the past year. Hence, the recommended pay increase for Federal workers is only half of the cost-of-living increase in the meantime. It seems to me to be unrealistic for the President to ask Federal employees—who, under the law, have no right to strike, and I do not advocate that they be given the right to strike—to forgo a pay increase unless the President is equally prepared to ask all workers in the private sector to roll back the pay increase which they have already secured, and to which they are entitled, during this past year. In other words, the pay of workers in comparable jobs in the private sector has increased on the average—according to OMB and the Civil Service Commission—by 5.5 percent, while the last pay increase received by Federal workers was a year ago in October, and, even then, it amounted to only 4.77 percent. Federal workers should not be asked to delay for 90 days the increase to which they are already entitled and which would put them on a par with the wage increases which workers in comparable private sector jobs have already received.

Moreover, while, on the one hand, Mr. Ford has rejected consideration of standby wage and price controls in the war on inflation, he now proposes to institute a form of wage control for 90 days over Federal employees and military personnel, and I do not think that this is fair.

Finally, the President, in proposing the delayed wage increase until January 1, said that Government workers should provide an example of sacrifice in the war against inflation. Yet, according to press reports, administration spokesmen have indicated that the American people need not expect any "real action" in dealing with inflation until the President delivers his state of the Union and budget messages in January. It seems to me that, for the administration to ask Government workers to provide the example for belt-tightening, beginning on October 1, while, at the same time, indicating that the administration's "real action" programs will not be announced until January, sets a double standard, and, in my opinion, this is wrong.

OUR MISSING-IN-ACTION

Mr. HRUSKA. Mr. President, one of the most persistent and heartbreaking aftermaths of the Vietnam conflict has been the failure to secure an accurate accounting of our men who are listed as missing in action in Southeast Asia. The expectations that accompanied the signing of the Paris peace agreements in January 1972, have not been fulfilled. Article 8(b) which specifically provided for an accounting of MIA's has been virtually ignored by the Communists.

In the year and a half since the signing of those agreements, we have gained little new information about our missing men. A few bodies have been returned, but there are hundreds still missing. The agony of the families of our MIA's is unimaginable. We can only share a measure of that agony. And, we can remain firm in our resolve to pursue the accounting even though we are faced with the callous attitude of the Communist governments.

The Congress has gone on record several times to reaffirm its support for continued efforts to push for an accounting. All diplomatic channels must be explored and re-explored. No effort should be spared. As a nation and as a people, we cannot abandon these men and their families.

The one ray of hope in this entire matter has come from the families of our MIA's. I have had the honor of meeting on several occasions with the wives and families of several MIA's from Nebraska. Their quiet courage and resolution have earned them the respect and admiration of people throughout the country.

While I know that all of us have often wished there was something we could do to ease the pain for these families, we have been discouraged by the lack of cooperation from the Communists.

Mr. President, there is something we can do. It is something the families have requested of us. Let us act now.

The immediate problem which affects all MIA families relates to sections 555 and 556 of title 37 of the United States Code. Those familiar with these sections of the law know that they relate to the pay and allowances permitted POW's, MIA's and their families. One of the requirements of this law is that the Secretaries of the respective services are required to conduct status review hearings 1 year following the date a man was declared missing. On the basis of that review, the Secretary can determine whether to retain a man in a missing status or whether on the basis of information contained in the file or on the basis of no new information being added to the file make a presumptive finding of death.

The National League of Families, an organization whose members are the families of MIA's throughout the country, held its annual convention in Omaha, Nebr., late in June. It was the overwhelming opinion of the families that the law must be changed. Their reasoning was sound, and their call for action clearly stated.

First, they feel that it is too early to proceed with presumptive findings of death, particularly when our Government has received no cooperation from the Communists toward achieving an accounting. There is no new information being added to a missing man's file because we do not have access to such information. The families are concerned that once our Government declares a man dead, the Communists will be relieved of all obligation to heed our demands for an accounting.

More importantly, the families object to the very principle of permitting the Department of Defense to declare a man presumptively dead on the basis of a law that was originally intended to provide for pay and allowances.

Uppermost in the minds of the families is that we do nothing which diminishes our Government's ability or the pressures of world opinion to achieve an accounting. In the meantime, the families want us to review the law with respect to presumptive findings of death.

The National League of Families voted to send Congress a message. Mr. President, we must heed the call for action. My colleague from South Carolina, Senator STROM THURMOND, has introduced a bill to which I have joined as a cosponsor. That bill, S. 3862, does two things.

First, it prohibits the Secretaries of the services from making presumptive findings of death until there is an accounting of our men or until the President informs the Congress that our Government has done all possible to achieve such an accounting.

Second, it would give the Armed Services Committees of both the House and Senate 180 days to study sections 555 and 556 of title 37 of the United States Code with a view to determining whether these sections should be repealed or amended.

I joined in cosponsoring this bill because I felt this was the best way to give the families an opportunity to make their views known to their elected representatives.

I have written a letter to President Ford asking that the administration press for the fulfillment of the provisions of the Paris agreement regarding the MIA question.

I also have asked the distinguished chairman of the Armed Services Committee to schedule hearings in the near future so we can study these specific sections of the law carefully. A representative group of families should be called in to testify so their views will be reflected in any recommended changes in the law.

At this time I ask unanimous consent that my letters to President Ford and the Senator from Mississippi be printed in the RECORD.

In my judgment, we have an obligation to our MIA's and their families. We will not fulfill that obligation if we ignore this plea for help.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C., *September 4, 1974.*

THE PRESIDENT,
White House,
Washington, D.C.

DEAR MR. PRESIDENT: Recently you met with representatives of the National League of Families whose membership consists of the families of our men who are listed as missing-in-action in Southeast Asia.

As you know, one of the most disturbing aftermaths of the Vietnam conflict has been a failure to secure an accounting of our MIAs as provided for in Article 8(b) of the Paris Peace Agreements. These Agreements clearly detailed the obligations of all parties for arrangements for the location and repatriation of the remains of the dead, as well as an exchange of information about the missing. This has not been the case. Events of the past year and a half have only shown the callous disregard of the Communists on this critical issue.

As one who has several MIA families living in my state, I have been acutely aware of their concerns and our obligations to them. The National League of Families held its annual convention in Omaha in June. The families came away from that meeting with a firm resolve to continue their untiring efforts to keep this whole matter before the leaders of our government and the nation as a whole. Their meeting with you was in line with this policy.

May I now ask you to renew the faith of our MIA families that their loved ones have not been forgotten. I urge you to take some positive steps to see that Article 8(b) of the Paris Agreements is fulfilled. This assurance would immeasurably ease the burden these families share. I know you would agree that we cannot forget these men who gave so much to their country.

With kind regards,
Sincerely,

ROMAN L. HRUSKA,
U.S. Senator, Nebraska.

WASHINGTON, D.C.,
September 4, 1974.

Hon. JOHN C. STENNIS,
U.S. Senate,
Washington, D.C.

DEAR JOHN: As you know, one of the most disturbing aftermaths of the Vietnam conflict has been the failure to secure an accurate accounting of our men who are listed as missing-in-action in Southeast Asia. The families of these men were confident that an exchange of prisoner information would be forthcoming when the Paris Agreements were signed in January, 1973. That has not been the case. Events of the past year and a half have only shown the callous disregard of the Communists for our desire to learn the truth about our missing men. We are entitled to an accounting, and we have gotten nowhere in that effort.

As one who has several MIA families living in my state, I am acutely aware of their concerns and our obligations to them. Recently, the National League of Families, whose membership consists of the families of our MIAs, held its annual convention in Omaha. The families came away with a clear message to the Congress. The purpose of this letter is to see what we can do to fulfill our obligations to them.

Our distinguished colleague, Senator Thurmond, has introduced a bill, S. 3862, to which I have joined as a co-sponsor. That bill essentially adopts the recommendations of the National League of Families with respect to the procedures by which the Department of Defense is making status review changes and presumptive findings of death.

The bill does two things.

First, it prohibits the Secretaries of the Services from making presumptive findings of death until there is an accounting of our men or until the President informs the Congress that our government has done all possible to achieve such an accounting.

Second, it would give the Armed Services Committees of the House and Senate 180 days to study Sections 555 and 556 of Title 37 of the U.S. Code with a view to determine whether these sections should be repealed or amended. As you know, these sections of the law relate to the pay and allowances permitted POWs, MIAs and their families. Those sections are now the only basis by which the Department of Defense has the authority to make presumptive findings of death.

I note with interest that the Senate Armed Services Committee has included language in the Military Construction Bill similar to an amendment offered by Senator Hollings. If adopted, this would serve as an effective interim approach while the Congress proceeds to consider permanent legislation to improve Sections 555 and 556 of the U.S. Code.

The chief point, however, is that we must consider permanent legislation. I urge you as the Chairman of the Senate Armed Services Committee to schedule hearings in the near future so that the families of our MIAs will have an opportunity to testify and make their case to their elected representatives. Certainly, any legislation which is considered by the Congress must consider their contributions.

With kind regards,
Sincerely,

ROMAN L. HRUSKA,
U.S. Senator, Nebraska.

DR. JAMES TOBIN ON THE ECONOMY

Mr. McGOVERN. Mr. President, Dr. James Tobin authored an article in the New York Times today, September 6, 1974, which outlines some of the major concerns of the current dilemma of inflation and recession. He makes the point that economic policies should be followed within the context of a "new social contract." He believes that economic policy should be directed toward restoring the real purchasing power of the individual and that policies be taken "not to increase employment, but to keep it from rising."

Mr. President, I ask unanimous consent that this article by one of the Nation's greatest economists be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THERE ARE THREE TYPES OF INFLATION—WE HAVE TWO

(By James Tobin)

NEW HAVEN, CONN.—Three decades of experience tell us that inflation is endemic to modern democratic industrial societies. Fortunately the same record indicates that these economies are nonetheless capable of yielding their citizens substantial gains in well-being decade after decade. But hysteria about inflation may lead to policies that keep economic progress well below its potential.

The United States inflation of 1973–74 is a complex and difficult case, unique in our history. In general we may distinguish three types of inflation: a) excess demand inflation, popularly summarized as "too much money chasing too few goods," b) the wage-price-wage spiral, and c) shortages and price increases in important commodities. Our current inflation is a combination of b) and c). But public discussion generally ignores these distinctions and identifies every inflation, including the present case, as the classical type a). From this diagnosis, mistaken in my opinion, follows the classical remedy, the "old-time religion" of restricting aggregate demand by tight monetary policy and by fiscal austerity.

With some oversimplification, we can say that the U.S. suffered a severe case of excess-demand inflation a) in 1966, when President Johnson and Secretary of Defense Robert McNamara piled war demands onto an economy already operating close to its capacity, and ignored their economists' pleas to raise taxes. Reenforced by a lesser dose of excess demand in 1968, the 1966 outburst left in its wake a surprisingly stubborn case of inflation type b), the wage-price-wage spiral. Attaining a momentum of its own, this inflation first accelerated and then abated somewhat under the deliberately recessionary policy of 1969–71, assisted by Phases I and II of the controls introduced in August 1971.

At the end of 1972 the ongoing wage-price dynamic was producing over-all inflation of 3½ per cent per year, down from 5 per cent in 1969 and 1970. However, it was obvious, as events confirmed, that some of the improvement was transient window dressing which would not survive relaxation of controls and completion of the recovery from recession.

Some observers view the 1973 expansion of the American economy as another case of excess demand and blame the Federal Reserve and the Nixon budget for overheating the economy once again. But unemployment never fell below 4.6 per cent, and the Government cooled off the boom pretty quickly after midyear. In any case, the underlying wage-price-wage dynamic was proceeding at year-end with wage increases of 7 to 8 per cent, which with normal productivity gains would mean price inflation in the neighborhood of 5 per cent per year.

But meanwhile the United States was hit by a severe type c) inflation, a spectacular increase in commodity prices. For the first time since the Korean war, external events sharply increased the prices facing American producers and consumers. Everyone knows about the world shortages of food and energy, and about the aggressive new policies of the oil-producing nations, who have in effect imposed an excise tax of $10 to $15-billion a year on American consumers of their products. What may be less well understood is the role of the 16 per cent depreciation of the dollar in foreign exchange since 1970. Working precisely as the architects of the policy hoped, dollar depreciation made imports about $10 billion a year more expensive to Americans. Combined with booms in Europe and Japan, depreciation also increased foreign demand for U.S. products, notably basic agricultural and industrial commodities. Foreign demands for our exports created shortages and price increases for American buyers.

Now there are two important differences between types b) and c) inflation. First, the wage-price-wage spiral keeps going of its own momentum. Wage increases are covered by price boosts, and subsequent wage settlements respond both to past wage patterns and to price inflation. The type c) commodity price increases, however, are once-for-all adjustments to new supply-demand situations: those prices won't necessarily fall, but all that is needed to improve the rate of inflation is that they stop rising.

Second, the wage-price-wage spiral does not of itself impose any collective loss on the nation or on the urban nonagricultural sector of the economy in which it occurs. One man's price is another's income; when buyers pay more, sellers receive more. The inflation may proceed unevenly, so that some workers, consumers, and property owners lose while others gain; such relative distributional changes are always occurring, inflation or no inflation. But it is simply vulgar nonsense—no less for constant repetition by economists, politicians, bankers, and journalists—to say that an internal self-contained inflation causes per se a loss of economic welfare in aggregate.

The commodity price increases are a different matter. They are symptoms of a real na-

tional economic loss, and in particular a loss to urban wage-earners and consumers. In current circumstances, we are paying more for oil and other imports. We're not just paying more dollars but more work and resources; under our new foreign exchange rate policy we can no longer buy foreign goods with paper dollar i.o.u.'s. We are also paying more, about $25 billion a year gross, to our own farmers. Recorded declines of real wages are the painful and unavoidable consequences. To attribute them indiscriminately to "inflation" is superficial and misleading.

The economy is currently in recession, and the prospects are for abnormally slow growth in output and for rising unemployment. The Federal Reserve is administering the classical medicine for excess demand inflation a), because that is the only medicine it has. Some of its spokesmen, supporters, and critics regard every inflation, almost by definition, as the excess demand type—on the ground that, whatever the proximate origins of inflation, it could be avoided by sufficiently resolute restriction of demand. The idea is that the wage-price-wage spiral will unwind if enough slack—idle capacity and unemployment—is created. Extreme advocates of the old-time religion even argue that determined disinflation of demand could have yielded big enough reductions in prices of other goods and services to offset or average out the recent price increases of food, fuel, and basic materials.

The trouble with this prescription is that it will not succeed without years of economic stagnation, high unemployment, and lost production, with much more severe consequences for real economic welfare than the inflation itself. Experience shows that the wage-price-wage spiral is extremely resistant to unemployment, recession, and economic slack. The unpleasant fact of life is that the wage- and price-setting institutions of our economy, and of every other non-Communist economy, are biased toward inflation. Wages and prices rise when and where demand is strong much more readily than they decline when and where demand is weak. While the classical medicine would have prevented the Vietnam burst of inflation, it will take much more time and pain than its advocates admit to overcome the wage-price-wage inflation now built into our economy.

The main inflationary threat this year is that the temporary inflation of type c will be permanently built into the ongoing wage-price-wage spiral. The setbacks to real wages reflected in higher prices of food, fuel, and other commodities cannot really be reversed. General attempts to "catch up" by escalated wage settlements will simply be defeated by accelerated price inflation. So Washington is right to be alarmed by this year's wage settlements.

But there is very little the Federal Reserve can do about them, even if the Fed provokes a full-blown recession. The settlements are already in the works, and they depend much more on the recent history of wages and prices than on the current strength or weakness of demand. The budgetmakers of the Executive and the Congress are in much the same position. They too can be nobly and resolutely austere, pretending they are fighting a classical type (a) inflation. But the results of budget cutting will be measured more in lower unemployment and production statistics than in wages and prices. Present anti-inflation hysteria may well yield policies that bring us the worst of several worlds.

Is there a more promising and less costly way to confront the unique inflationary problem of 1974? If ever there was a time for what the Europeans call "incomes policy," the time is now. It may be that the Nixon experiment with wage and price controls was never a good idea, and the stop-and-go alternation of phases certainly didn't help. But the total abandonment in April of this year of every legal or informal restraint was incredibly untimely.

What was needed was Presidential leadership—in open, candid understanding with business, labor, agriculture, and consumers—to establish realistic moderate guideposts for wages and prices. We still need what some of us have called a new social contract for the economy, along the following lines: (1) Monetary and fiscal policy would be geared, not to increase unemployment, but to keep it from rising, and to achieve, not to thwart, the 4 per cent a year growth in production of which our economy is capable. (2) Workers' take-home pay would be increased by cutting Social Security payroll taxes and by making the structure of those taxes more equitable and progressive. This tax cut would provide part of the demand stimulus needed under (1). (3) Labor, for its part, would consent to a general wage guidepost of 8 or 9 per cent, and Washington would expect and exact comparable moderation in business and agricultural price-setting.

The hour is late. But the long national nightmare is over. Our new President has the trust and goodwill of the American people. If the economic problem he confronts is unique, he also enjoys a unique opportunity to seek a new direction.

RETURN TO GOLD?

Mr. GOLDWATER. Mr. President, in view of President Ford's recent speech on correcting inflation and a growing demand in financial publications for a "return to gold," I believe this question will loom ever larger on the economic horizon of the United States in the weeks to come.

Mr. President, there is no escape from gold. All the power of Government, even to the extent of cutting off people's heads if they don't accept paper has been shown by history to be futile. As William McChesney Martin has said, "our nation needs a dollar with a store of value."

In this connection, Mr. President, I wish to remind the Members of the Senate that the Committee on Monetary Research and Education is due to meet next November 13 and 14 at Georgetown University Center for Strategic and International Studies. This bids fair to be an important turning point in our monetary development. For that reason, I ask unanimous consent that a magazine article by Henry Hazlitt entitled "Return to Gold?" be printed in the RECORD. The article appeared in the August 2 issue of National Review magazine, and I recommend it to each and every Member of this august body.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INFLATION: RETURN TO GOLD?

(By Henry Hazlitt)

In 1931 Great Britain abandoned the convertibility of its money into gold. In 1933 the United States followed. In the 40 years since then the nations of the world have been, for nearly all practical purposes, on a paper money basis.

Until 1931 the absolute necessity of maintaining the gold standard was taken for granted by the overwhelming majority of the world's bankers and monetary economists. But after our country went off gold, and things seemed to get a little better rather than worse, even expert opinion began to change. Most economists began to agree that gold was a "barbarous relic," or at least an unnecessary one, and that government monetary managers could be trusted to manage inconvertible paper currencies not only responsibly but expertly. Gold might be all very well for filling teeth, but there was no reason why governments should go to the expense of buying and storing huge quantities of it to serve as a "reserve" to keep their currencies sound.

Under the Bretton Wood agreements of 1944, the United States was the only country that returned even technically to a gold standard. It agreed to make the dollar convertible into gold at $35 an ounce. Not for its own citizens or any other private person, however, but only for the central banks of other countries. Some monetary economists began to attack even this arrangement. They contended that the price of gold was being held up to $35 an ounce solely by our government's standing offer to buy it at that figure. If this "government support" were withdrawn, they argued, gold would fall to about only half that price.

On August 15, 1971 our government abandoned even this narrowly restricted gold standard. It broke its pledged word to exchange an ounce of gold for 35 paper dollars. In December of 1971 it formally "devalued" the dollar by about 7 per cent. On February 12, 1973 it again devalued the dollar, this time by 10 per cent.

So gold is now not only demonetized; it is worse than demonetized. Though the law may soon be changed. American citizens, as well as those of some other countries, are still prohibited from holding gold, except in the form of jewelry or old coins. Yet instead of gold falling to $18 an ounce with the removal of government "support," its price soared in the few free gold markets of the world. On February 27, in London, gold was selling above $180 an ounce, more than four times its present "official" American price of $42.22 an ounce.

Nobody knows what the future price is going to be, but even the opponents of the gold standard now admit that the recent free market prices reflect a profound distrust of the world's paper currencies. Central bankers and monetary economists are beginning to ask again whether it is possible to halt inflation permanently without a return to a full gold standard.

To understand their change of thought, it is important to recall part of the history of the gold standard and what has happened since it was abandoned. Gold coins have come down to us from the most ancient times. What is known as the gold standard, however, is of comparatively recent origin. For centuries gold and silver coins circulated side by side. But England early became the leading industrial and commercial nation, and its leadership was determining. It adopted a single gold standard in 1816. Between 1866 and 1874 silver was demonetized in Germany, the United States, Sweden, Norway, the Netherlands, and Japan; then in the five countries of the Latin Monetary Union in 1884. In 1873 there were some nine countries on the gold standard; in 1890, 22 countries; in 1900, 29 countries; in 1912, 41 countries. Just before the outbreak of the First World War, the gold standard was practically everywhere accepted and unquestioned. Because each currency was convertible into a fixed weight of gold, the chief national currencies were convertible into each other at the same relative fixed rates. Yet there was no formal international agreement to that effect.

The outbreak of the First World War in 1914 violently disrupted this system. Every country involved suspended convertibility of its currency into gold. It did this not because the need for gold had suddenly fallen but precisely because it had suddenly increased. Every belligerent wanted to conserve its gold in order to import essential armaments or foodstuffs. It knew that, in war, gold was the only money foreign sellers would trust.

But suspending gold convertibility, governments found, served another immediate purpose. It made it less necessary for them to balance their budgets. They could pay for their increased war expenditures at home simply by issuing more paper money. They no longer had to fear that holders could demand gold for this money.

When more money is issued the buying power of each unit tends to fall. As a broad rule, prices of goods tends to rise in proportion to the increase in the money supply. Here is what happened, for example, in three leading countries between 1913 and 1919. In the United States the money supply was increased 73 per cent; wholesale prices increased 106 per cent. In Great Britain the money supply was increased 144 per cent; wholesale prices increased 157 per cent. In Germany the money supply was increased 726 per cent; wholesale prices increased 703 per cent.

When the war was over, the defeated nation, Germany, launched on hyper-inflation, which at the end of 1923 had brought the value of the mark down to one-trillionth of its prewar value. The victorious and neutral nations, after about 1920, began trying to put their monetary houses back in order. In one sense, some even overdid it. In April 1925, Britain not only returned to the gold standard but did so at the old rate of $4.86. This was in effect a decision to deflate, but the British authorities did not seem to realize that. In early 1925, not only was the pound still at a 10 per cent discount from its old gold parity (it had fallen as low as $3.18 in February of 1920), but British wholesale prices were 60 per cent higher than they had been in 1913.

As it turned out (partly because of a downward plunge in world prices), wholesale prices in Great Britain declined 40 per cent between 1925 and 1931. But the power of British labor unions kept up wage rates and costs. So British exports stagnated, imports increased, and unemployment mounted. There was finally a massive run on gold. England abandoned the gold standard on September 20, 1931.

The pound sterling had immense prestige. When England went off gold, the shock of confidence was worldwide. If sterling was not good, was any other currency good?

Was the dollar good? A foreign run on the gold of the United States came with dramatic suddenness. The run was met, but at the cost of an unparalleled liquidation of bank credit. Some banks failed. An increasing number were in trouble. The government set up a Reconstruction Finance Corporation to rescue the "sound" ones.

But a bank panic had developed. In the four months between November 1932, when Franklin D. Roosevelt defeated President Hoover, and Inauguration Day, March 4, 1933, government was largely paralyzed. Foreigners withdrew more gold. Many Americans also began taking their money out of the banks to put it into gold. Banks were closing their doors everywhere.

On Monday, March 6, two days after his inauguration, President Roosevelt declared a four-day bank closing, or "holiday." Three days later, on his recommendation, Congress passed within a few hours an Act "to provide relief in the existing national emergency in banking, and for other purposes." The new law gave the President blanket authority to do pretty much as he saw fit regarding money and banking even to seize the gold in the hands of the people. On April 5 it was made unlawful to export gold, to own or hold gold coins, gold bullion, or gold certificates.

For many months President Roosevelt was captivated by the ideas of George F. Warren, a professor of agricultural economics at Cornell University. Warren believed that the commodity price level could be changed at will by changing the gold content of the dollar. So for months that content was declared to be on a "24-hour basis." The President and his Secretary of the Treasury, Henry Morgenthau Jr., would meet at breakfast to fix and announce a new price of gold. Sometimes they chose a "lucky number." "If people knew how we fixed the price of gold," wrote Morgenthau in his dairy, "they would be frightened."

Commodity prices were expected to respond in proportion to these price changes in gold. They failed to do so. On January 31, 1934, however, the President finally announced a reduction of the gold content of the dollar 40.94 per cent, to 59.06 per cent of its par value. This meant that the price of gold was raised from the former $20.67 an ounce to $35. It remained there until the end of 1971.

In the 40 years since 1934 it has become fashionable to say that the gold standard "broke down." But the supporters of the standard insist it was destroyed by governments, by the politicians in power, because it stood in the way of inflation. Excessive spending and chronic budget deficits paid for by printing more money, they argue, could not long continue if the currency were constantly convertible into gold on demand. It is no mere coincidence, they maintain, that almost immediately after the world departed from the gold standard in the early Thirties, a worldwide inflation set in that has continued, and accelerated, ever since. In the decade between 1934 and 1944, the American "money supply"—currency in the hands of the public plus demand bank deposits—was increased almost fourfold. In the same period consumer prices went up more than 30 per cent. Finally, in 1944, a major effort was made by the representatives of 44 nations meeting at Bretton Woods, New Hampshire to "stabilize" the world's currencies. They set up an International Monetary Fund. Each member nation agreed to adopt an official "par value" for its currency, expressed in terms of the American dollar. It also agreed to keep its currency within 1 per cent of parity with the dollar. It would do this by buying dollars whenever its currency got above that figure and selling dollars whenever it got below.

Probably few of the delegates realized quite how enormous were the potentialities of this system for inflation. Only the U.S. put itself under the obligation of redeeming its currency in gold (at a rate of $35 an ounce). And it was not obliged to do even this for all holders of dollars but only for foreign central banks. As other nations were not obliged to keep their currencies convertible into gold but only into dollars, nearly all of them expanded their issue of paper money very freely. When they found they could not maintain their money at par even with dollars, they simply "devalued." The British pound, once the world's most prestigious currency, was devalued in 1949 from $4.03 to $2.80, and again in 1967 from $2.80 to $2.40. Practically every one of the more than a hundred currencies in the IMF was devalued at least once, and some dozens of times.

Meanwhile our own government took lightly our responsibilities as the supposed "anchor" currency. We began to inflate—to issue more money—even faster than some other leading countries. So we found ourselves, after 1957, running a heavy "deficit in the balance of payments." As a result, we lost gold. Our stock of it fell from $23 billion at the end of 1957 to $10 billion at the end of 1971. Yet because other countries could hold their reserves or settle their own international balances in paper dollars, they continued to accept such dollars from us. These dollars were in effect obligations by us to pay gold on demand. But we did not much mind paying the dollars out. We could simply replace them by printing more paper dollars.

At the end of 1971 foreign central banks alone were holding $51 billion of these—five times as much as our stock of gold. When these foreign central banks lost confidence and at last insisted on gold for their dollars, we reneged. We officially abandoned even our very restricted gold standard on August 15, 1971.

This brief history is enough to show that, even if the IMF system was not a positive encouragement to inflation, it did nothing to prevent it. The IMF was set up for business in 1946. The accompanying table, specially prepared by the First National City Bank of New York, shows what happened to 24 of the leading currencies of the world in the 24 years from 1943 to 1972 and what was still happening in 1973.

The depreciation of each country's currency unit is figured as the reciprocal of the increase of consumer prices in that country. Thus the buying power of the dollar in 1972 was only 57 per cent as much as it was in 1948. That buying power fell nearly 6 per cent more last year. In all but two other countries in the table, the situation was even worse. In the United Kingdom, the median country, the buying power in 1972 was down to 36 per cent of what it was in 1948. In these 24 years the median buying power of these 24 currencies shrank at an average rate of more than 4 per cent annually. The acceleration of inflation nearly everywhere is shown by what happened in 1973, when the median yearly rate of depreciation doubled to more than 8 per cent. In both the U.S. and Britain the rate of depreciation has been running even higher in recent months.

When we look at leading South American countries—Argentina, Brazil, Uruguay, Chile—we find that in 1972 all their currencies would buy less than 1 per cent of what they could buy in 1948. They were depreciating at *annual* rates of from 28 to 78 per cent in that 24-year period. They depreciated at similar rates last year. In other words, prices in those countries have been soaring 100 to 300 per cent *a year*.

This is why monetary economists are beginning to take a more sympathetic interest in proposals to restore the gold standard. Political thought is also changing. There was one significant sign within the last few weeks, when Congress tacked onto another bill an amendment that would restore in a few months the right of American citizens to own gold. What many of the legislators in favor of the amendment are trying to do is to give private citizens at least this method of protecting themselves against further depreciation of their paper dollars.

There is no agreement among the advocates of the full gold standard on how, when, or at what rate to return to it. But they do agree that only the constant obligation of the monetary authorities to convert dollars into gold on demand—to any amount and for anybody who holds the dollars—can prevent the over-issuance of paper money and bring inflation to a halt. They acknowledge that it is easy to draw up on paper a tidy-looking plan by which the government will agree to issue no more paper dollars, or at least restrict itself to printing only 3 or 5 per cent more a year. But they point out that there is no record of any government's abiding by such restrictions as long as it did not have to make its money constantly convertible.

As they sum it up: the case for the gold standard is precisely that the supply of gold is limited by nature; it always costs something to produce. Gold may not be a theoretically perfect basis for money, but it has the overwhelming merit of making the money supply, and therefore the value of the monetary unit, independent of governmental manipulation and political pressure groups.

BUYING POWER OF MONEY: 1948-72

	1972 index of the value of money (1948=100)	Average annual rates of depreciation of money	
		1948-72 [1]	1973
West Germany	[2] 62	[3] 2.1	6.4
Belgium	58	2.2	6.5
United States	57	2.3	5.9
Switzerland	56	4.1	8.1
Canada	54	2.6	[4] 7.1
Italy	46	3.2	[4] 9.5
South Africa	44	3.3	8.7
Venezuela	40	4.1	[4] 3.5
India	39	3.9	[4] 15.5
Netherlands	39	4.1	7.4
Sweden	37	4.1	6.7
United Kingdom	36	4.1	7.9
Australia	[2] 36	[3] 4.3	[4] 8.9
New Zealand	35	4.2	7.6
Norway	35	4.3	6.9
Denmark	34	4.3	8.5
Finland	29	5.0	10.3
Mexico	29	5.1	[4] 10.1
France	27	5.4	6.8
Peru	13	8.2	[4] 8.8
Argentina	[5] 1	28.1	[4] 37.6
Brazil	[5] 1	56.2	[4] 11.3
Uruguay	[5] 1	73.8	49.2
Chile	[5] 1	77.6	59.9

[1] Compounded annually.
[2] 1949=100.
[3] 1949-72.
[4] Estimated.
[5] Less than 1.

PROGRESS ON BUDGET CUTTING

Mr. MOSS. Mr. President, today's report of the Joint Committee on Reduction of Federal Expenditures contains hopeful news for "economizers" everywhere.

According to the Joint Committee's latest tabulations, Congress is well on the road to cutting below the administration's budget targets. But it will also demonstrate a growing determination to apply limited funds where they are most needed.

Recently, the Senate slashed $5.5 billion from Defense Department spending plans. The reduction will mean an immediate cut of $2.7 billion from current outlays, with additional savings in the years to come. Expected cuts in foreign assistance and military construction alone could bring the cuts to well over $3 billion. This is not the only area in which Congress has cut funding.

Roy Ash, Director of the Office of Management and Budget recently criticized Congress for failing to take action on administration proposals which he said would have cut government outlays by almost $1 billion. What Mr. Ash failed to note was that Congress has refused to act on other administration proposals—for new and expanded Federal programing, which would have cost some $1.4 billion.

On the other side of the ledger, Congress had redirected $2 billion in Federal spending to high priority areas where it had long been denied. The largest share of this money, more than two-thirds, is earmarked for veterans' disability and educational benefits. The rest has been to small business development, school lunch, and civil service retirement programs.

From the figures contained in the Joint Committee's report it now appears Congress will make a huge net cut in administration's spending proposals. We are heading in the right direction.

METRICATION

Mr. PELL. Mr. President, a leading spokesman for metrication and one whose expertise in this important area has received considerable acclaim is Joseph E. Kochhan, who is product director at the Brown and Sharpe Manufacturing Co. in my home State of Rhode Island.

My own legislation, S. 100, which provides for an orderly conversion by our country to metrication, has not succeeded in this Congress. I continue to believe that delays in the approval of this legislation will be costly to us in terms both of future industrial progress and international trade. A well-coordinated approach to metric conversion is most economic. Piecemeal conversion will not prove nearly as effective.

And yet our Nation is increasingly committing itself to this kind of conversion.

Mr. Kochhan has been speaking out on these issues for some time. He has been addressing labor union conventions, technical societies, and other interested groups. His words of wisdom have a timeliness and a meaning for all of us today.

I am particularly impressed by an address he has recently given entitled "Metrication—Phase II." In this address he gives some excellent advice to industries considering the benefits of conversion; and at the same time he points out that the legislation we have been considering in the Congress is long overdue.

Mr. President, I ask unanimous consent that the address by Joseph Kochhan be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

METRICATION—PHASE II

For a long time now we have been talking about the story of metrication in the United States. Much of the material we have been discussing has been historical. It has been interesting, and for some of us it has been rather fascinating to trace down the history of this metric revolution, our many aborted attempts here in the United States, and now what appears to be a certainty that metrication will actually occur.

I think we've talked enough about the history. I think we have talked enough about the background and I think it is time we got on with the job of deciding exactly what the S.I. system is all about and how it will affect us, specifically during the next few years, and how we should cope with it. The International System of Units, or Systeme International d'Unites (S.I.) is now certain to become our system of measures. Let's not be confused; the S.I. is not the old European metric system. It does not involve the sizes of things. It does not concern itself with standardization of hardware. International standards are a problem, a very real problem, but let's not be confused with the difference between S.I. and the standards using S.I. Also, let's not be confused about this matter of cost. I'm afraid that in many of the statements made concerning the metrication of America, cost has been grossly overstated. I am sure that with planning over a period of time the cost of metrication can be effectively minimized. I am sure that machine tools do not have to be replaced on a wholesale basis and that the cost of metrication can be, to a great extent, blended into the normal cost of doing business.

As I said before, the history of measurement and of metrication, as it has taken over in its slowly gathering momentum, is fascinating. The arguments over the years have been interesting and in some cases, bordering on the ridiculous. The tugging involved, the statements and contradictions, the generalizations and accusations, have been fantastic. The Machine Tool Builders Association as little as five years ago, on the basis of a questionnaire circulated to all members, unanimously indicated they were not in favor of metrication for the United States, and then, only two years ago, a similar questionnaire elicited a 70-odd percent supporting vote and a 80-odd percent statement that in fact the metrication of America was inevitable.

Over the last ten years then, three factors have radically changed these arguments, have crystallized the position in which we find ourselves.

1. The need for a common language has become all too evident. In the shrinking world of technology, economics and politics the need for a common language has become self-evident.

2. The creation of S.I. as a formalized, organized and structured system replacing the rather loose "metric system," has given us a rallying point.

3. More than a rallying point, the S.I. system has been embraced by the world and as such, it has become common language. You all recall the study made by N.B.S. back in 1968 and the report in 1971 and the various legislative attempts which have been made for the last few years. In the last session of the Senate, Senator Pell's bill was run through and didn't even get to the House—it "died" on its way to the lower body. We do know now that there is at least one bill pending in the Senate, a revised edition of the bill which was passed last year, and there are some fourteen bills in the House; it is quite apparent that something is going to happen, and it undoubtedly will happen this year, but the amazing thing for all of us to realize is that by the time our legislators finally get around to passing the legislation it may be, in fact, ex post facto. In other words, the stems are already in motion, the wheels are already turning to convert American industry. In fact, it is pretty near impossible to imagine that any system as far reaching as the measurement system which is endorsed by General Motors, Ford, American Motors, Chrysler, Xerox, Eastman Kodak, I.B.M., Caterpillar Tractor, International Harvester, John Deere, just to mention a few of the major names, will not in fact, automatically become the system of the country.

Let's take a look at this S.I. First of all, it is not the "conventional metric system." Secondly, it is not involved with the size of anything, and thirdly, it is not going to cost $100,000,000,000, which has been bandied around as the price of admission to the S.I. world. There are in fact, three measurement systems extant; the first is the English system—three thousand years old, coming about through all kinds of rather crude and amateurish attempts at defining standards but, by guess and by golly and by chance and by muddling, it has become a quite well defined system probably due, as much as anything, to the good efforts of the National Bureau of Standards in the United States, the National Physical Laboratory in England and the British Standards Institution, all of which, by the way, were formed during the first two years of this century. The inch and the pound are the heart of the greatest industrial effort in the world, and as such, we shouldn't look down on the system which has brought us to our present position.

The metric system is certainly the junior system, being only 300 years old. It was established and sponsored by that great churchman, statesman, politician, Bishop Tallyrand. There were no controls on the

system and so it became rather prostituted as time went on. Its system, in fact, is almost as awkward as the English system. The third measurement system is the S.I., the system we are concerned with at this time, and it was only in 1960 that it was truly formalized. It is the preferred system of the International Standards Organization and it is now the official basis of our United States units, inch and pound by derivation and definition. The amazing thing about the system S.I. is that it is based on seven fundamentals and all necessary units are derived from these seven, the seven being—

Length—Meter
Mass—Kilogram
Time—Second
Electric Current—Ampere
Thermo dynamic temperature—Kelvin
Amount of substance—Mole
Luminous intensity—Candela

All of these are readily reproducible anywhere in the world except for the kilogram. The kilogram is based on the standard of mass, which is held by the Institute in Paris from which duplicates have been created which are in every civilized country in the world, plus two supplementary units which are used, a unit for plain angles for radian and for solid angles, steradian.

Now, from these seven basic units, with the two supplementary units, there are derived many other units. These fall into two categories—the named units and the unnamed. For example, the named unit, that which defines electrical resistance, is the Ohm, power the Watt, magnetic flux density the Tesla, quantity of electricity the Coulomb, frequency the Hertz, force the Newton, energy the Joule, and so on. The unnamed are just by the description of their components. For example, area is square meter, volume is cubic meter, velocity is meter per second, density is kilogram per cubic meter, etc.

What is the difference between the so-called S.I. system and the old European metric systems? I believe the primary difference is that of coherence. Each derived unit is related to each other unit or to its base unit without conversion factors. For example, in S.I., a force of one Newton applied through one meter can produce energy equivalent to one joule of heat. The same is produced by one watt of power in one second. Contrast this with a similar definition in the English system. The force of one pound applied through a distance of one inch produces energy equivalent .000107 btu, which is the same produced by 1 HP in .000505 hours. Now the bar, the unit of pressure, and the calorie, unit of heat for example, are not cohesive and are not in the S.I. Secondly, the S.I. system is absolute. Force is not defined by action of gravity. Mass versus force is an area of great confusion in our language, as well as in our understanding.

The pound is used incorrectly for mass and force, whereas in the English system the poundal should be used for force and the slug to define mass. This is the greatest difference between the metric system and the S.I. system. In European practice, where the unit of force is the kilogram force, the value of absolutism leads to simplicity. For example, in the S.I. a force of one Newton accelerates a mass of one kilogram one meter per second per second. In contrast, in the old metric system, a force of one kilogram force accelerates the same mass, i.e., one kilogram, 9.80665 meters per second per second. It is very difficult to separate in our thinking force and mass. Sugar is sold by the kilogram, i.e. mass. A tensile machine indicates stress in Newtons, i.e., force. Technically, weight means the force of Newtons of gravity acting on an object. The layman will continue to use the term "weight" when he means "mass" and to measure it by kilograms. So, in technical work, discontinue the use of the term "weight" altogether. Stay on the safe side—use the word "force" or "mass" as applicable.

Now the other aspect of S.I. is that it is unique. There is only one unit for each quantity regardless of involvement, either mechanical, thermal or electrical. Power in engines, air conditioners or generators is defined in terms of watts. However, still not completely clear, still not completely coherent but to be kept to a minimum, are the non-coherent factors of hours, calendar units (days, weeks, months, years, etc.) and angles in terms of units of degrees. The calendar is a pretty tricky thing to decimalize and the matter of angles defined in units of degrees goes back to the Summarians, and this is a pretty difficult thing to overcome and change. You remember that I said earlier that S.I. is not involved in size of anything. There are two different types of standards—there is a standard of policies, of rules and of systems, and then there are standards of things—tires, threads, pins, etc. The general conference of weights and measures that created S.I. has nothing to do with hardware, threads, splines and that sort of thing. This is not to say that there doesn't need to be a lot of work done on the standards of things, but let's be careful that we define the difference between these two areas of standardization. For example, in welding fillets, the American Welding Society, AWS, can very neatly arrange for the conversion of the size of these fillets to nice, round metric numbers; this is easy. However, the actual physical size of these fillets, which we consider required in this country, is quite different from those required by our European cousins. Here is where we have to do a lot of work in this business of the standardization of things. But remember, it really has nothing to do with the metric system per se or with the system S.I. per se because the system S.I. merely establishes the standard of policy, of rules and of systems and has nothing to do with the standardization of things.

Now the cost has been bandied about as being that of approximately One Hundred Billion Dollars. As a matter of fact, you have as many figures available as you have speakers on the subject. Sometime ago there appeared in the I.A.M. publication THE MACHINIST a list of tools which an employee would have to obtain to shift to working in the metric system. Whether or not there was any political axe to grind behind this or any leverage that was being exerted to cause employers to underwrite the cost of personal tools I don't know, but it did seem strange to note that in this list of tools, which in total valued at well over $1,000, there were such things included as hammers, screw drivers, drive punches, squares and such capital items as electronic gages and rather expensive large vernier type tools.

Actually, the individual is not going to have to buy many new tools. When he gets his mikes and his scales, possibly a new scale for his combination square and maybe a new test indicator, he is going to be well along as far as his new tool box is concerned.

Most machine tools themselves are not even related to measurement. Presses and that type of device, metal forming tools, are just as adaptable to English dimensions as they are to metric, and vis-a-vis. On machine tools which do concern themselves with measurement, hand wheels, scales, etc., there are many conversion devices available, both mechanical and electronic, and it is not the end of the world that reference be made to a handy wall chart or pocket calculator, particularly of the electronic kind which today seems to be available at every corner drugstore.

Careful planning of the acquisition of machine tools over the next several years during the conversion cycle will minimize the cost of conversion and bring it down to not too much more than the normal replacement costs.

So, how do we go about preparing for metrication? I suppose there are basically two steps. The first is the adoption of the S.I. units of weights and measures; the second is the adoption of the new standards based on I.S.O. and I.E.C. recommendations. I.S.O. is the International Organization for Standardizations and I.E.C. being the International Electro Technical Commission.

Management has two possible directions in which it can go over the next several months. First of all, it can wait until forced to start the change. Now obviously, that's going to be great as far as cost is concerned right now. No cost now, but it anticipates a very costly crash program later on in the cycle. The second direction is to prepare now and in thus doing to amortize the cost of investigation, planning, training and acquisition of equipment. By planning now you can take advantage of obsolescence of equipment over the next several years; let the English die and replace equipment normally with equipment of either metric capabilities or at least dual capabilities.

Now what should you do in order to plan the metrication of your company? First of all you should establish a metric task force and in doing so, you need a metric supervisor. His job will be to organize the task force, to draw up detailed conversion plans, and most important, to maintain a stable atmosphere somewhere between rejection and over enthusiasm; both conditions can kill an ordering metrication program.

Now, what about this man—what should he be? Well, essentially he should have an engineering background; he should be familiar with the theory and application of standards; he should have a complete and detailed draftsman's knowledge of present systems; he should exude enthusiasm; he should be of an age which will permit his carrying through of the assignment of the entire 10 or 12 year cycle. It is not a job you want to assign to someone two years before retirement, even though that person may have all the other characteristics. Also, he needs to have that elusive quality of leadership.

What about the task force itself? What about its selection? Every man must know his own department and as a representative of his own department he must know not only in detail the functions and operations of his department but he also must know its inter-relations with all other departments. He must be familiar with the principles of metrication and he must be broadminded. Now by that I mean he must not be a narrow person to the extent he thinks only about the functions of his own department. He must be able to view the entire picture from a non-partial standpoint for the good of the total whole rather than just the good of his individual department. This is necessary because there will be frequent compromises which may, from a superficial standpoint, adversely affect the functions of his individual department.

What are the responsibilities of the task force? Well, I guess that first they are to develop a detailed and in-depth conversion plan applicable to the company as a whole as well as to individual departments. The job of the task force is also to establish an internal information center to maintain references and to perform research as needed, and to be a single, valid source of metrication data for your company. They need to communicate; they need to publish frequent newsletters, type progress reports (and these should have the widest circulation so that everyone remotely connected will have the message as to what is going on and where the metrication program stands in the company). These should not be broach-brush P.R. type of statements but rather in great detail and in minute terms the program should be followed and defined.

Next, the task force should establish a training program geared to employees' need to know. It is not necessary that every employee become a PhD qualified type in the metrication procedure any more than it is necessary for them to have the same complete knowledge of all of the ramifications of the current or conventional or English system. However, it is necessary that the training program be geared to the employee's need to know and be implemented on schedule, and this is the function of the task force.

It is also important that the task force insure adherence to the established program, directly and rescheduling any activities which deviate from the plan. There are three phases to the program. First, there is investigation. This must be in-depth, with full top management support. It must involve the drafting of an organization chart showing the responsibility of each department and of the selected personnel from that department who function either on or with the task force. It involves a report on each department and its metric capabilities, its equipment, its equipment cost, training needs, reference information needed, etc.

The second step, or the second phase of the program, is program development. This is the spelling out in minute detail of the steps of the program; this is a joint effort between the task force and the department representation.

The third phase is the actual implementation. Investigations are complete, plans are drawn up and now it's "GO", but the task force must maintain full control of the conversion and again spread the word.

Now what are some typical departmental responsibilities. First of all, design services. Here's a case where new standards are going to be needed and a wonderful opportunity to clean house; to comply with I.S.O. and I.E.C. recommendations, and you can get those from A.N.S.I., which is actually the U.S. or U.S.A. official representative of both of these organizations. You need to consider, discuss and decide what you want to do as far as dual dimensioning is concerned. There are some things to be said about this, pro and con. What about new designs? Are they to be 100% metric? Is it going to be essential, necessary, desirable or impossible to convert old designs? These are all factors that have to be considered and decided upon in a logical, thoughtful way by the design service department. How about manufacturing? Some people think that manufacturing is going to have the most difficult part of this whole program. I don't agree. I think that when manufacturing gets the ball it is going to be pretty well standardized and relatively simple. It may be that costs to convert in manufacturing will be greater than in other departments—I'm not even sure about that—but it certainly is not going to be the most difficult area.

Manufacturing needs to start thinking *now* about its equipment. Dual controlled equipment? What about individual tools? Who is going to buy them? Will this, as has happened in some companies already, become a matter of negotiation tnd an element in the annual or semi-annual contractual bargaining?

What about training? Some companies approach this area on a visual basis such as my favorite English company in Liverpool—Whitely, Lang & Niell—who have labeled everything in sight including door jambs, desks, file cabinets and even tea cups with the metric dimensions, be they linear or volumetric.

Inspection Department. Here again is a case where there is an equipment requirement, but again this can perhaps be absorbed over a period of time through the purchase of dual dimensioned equipment. This is probably the thing that should be done anyway, starting right now in all companies, and particularly so in the more expensive pieces of gaging equipment, coordinate measuring machines, vernier calipers, etc., where dual dimensioned equipment is available.

How about the Purchasing Department? It is their responsibility to be sure they have lined up vendors for raw material such as steel, parts such as fasteners, tools such as micrometers, etc., and to have this data available. Particularly in the area of raw material and parts they should make complete lists, catalogs, brochures, etc., of this material and their degree of availability for the Engineering Department.

Now what about Sales? Certainly here Sales has an opportunity to talk metric, to determine the needs of its customers in the metric world and to project an image of progress on the part of the company as far as its metrication program is concerned.

To repeat—the adoption of the S.I. system is inevitable for American industry, it's going on right now. It is essential, if you want to do the job effectively, efficiently and economically, you must prepare now. To do this you need to prepare with a metric task force and an organized plan. If you do this properly it will not turn out to be as tough a task as you think it may be, right now.

FORT MONROE, VA.

Mr. HARRY F. BYRD, JR. Mr. President, in a recent series of newspaper articles in the Newport News-Hampton Daily Press, Mr. P. J. Budahn discusses the historic significance of Fort Monroe, Va.

From a one-man garrison during the American Revolution to its present role as the Training and Doctrine Command Headquarters for the U.S. Army, the history of Fort Monroe—as Mr. Budahn so eloquently points out—has been the history of our country.

Fort Monroe, Mr. President, remains of continuing importance to the Nation. I, consequently, would like to share this series of articles with my colleagues and I ask unanimous consent that the text of the articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Newport News-Hampton (Va.) Daily Press, Aug. 31, 1974]

HISTORY OF FORT MONROE HAS BEEN HISTORY OF NATION

(By P. J. Budahn)

Two hundred years ago, as the nation was preparing for the American Revolution, the strategic spot of Old Point Comfort had a one-man garrison.

Today, Ft. Monroe stands upon the point amid questions on the fitness of its buidings, reports of possible close-out and efforts by local leaders to save the post.

But two centuries ago the question was decided. John Daines operated a makeshift lighthouse at Old Point Comfort and tended the ruins of what was Virginia's most elaborate fortification at the time.

It was called Ft. George. Like every fort ever built at Old Point Comfort, it had a troubled construction history.

Ft. George's problems began long after it was actually built and lasted long after it was destroyed.

In the early 1700s, the colonists feared that European wars would spill into the new world. Old Point Comfort was part of a four-fort system guarding Hampton Roads and the James and York rivers.

After the threat went away, so did the troops and cannon. For 17 years, the General Assembly resisted repeated calls by the governor to build a permanent fort on the point.

The assembly finally authorized the construction of Ft. George in 1728. It was finished four years later.

Ft. George was the most elaborate fort built by the colony. It consisted of two parallel brick walls 16 feet apart. The space between the walls was filled with sand.

It looked more formidable than it was. One hole in the outer wall would have weakened the entire structure.

Luckily for the colonists, it was never put to the test. A hurricane in 1749 destroyed it.

The General Assembly sank back into its apathy and refused to authorize funds to rebuild Ft. George. It was in ruins when the Revolutionary War started.

For a while, Lord Cornwallis considered occupying the ruins of Ft. George. He rejected it for a number of tactical reasons and went, instead, to his rendezvous with destiny at Yorktown.

Ironically, Ft. George's major role in the Revolution came at the hands of the French.

The French fleet which took part in the seige of Yorktown landed a battery at Old Point Comfort. The battery would serve as a final line of defense if a British fleet broke through the line of French warships to rescue Lord Cornwallis and his troops.

But independence brought no major change in policy. The new American government conducted four major coastal defense studies between 1793 and 1807. None of the studies recognized the strtegic importance of Old Point Comfort.

It took the burning of Washington, D.C., during the War of 1812 for the lesson to be learned.

[From the Newport News-Hampton (Va.) Daily Press, Sept. 1, 1974]

WAR OF 1812 SPURRED CONSTRUCTION OF OLD FORT MONROE

(By P. J. Budahn)

The strategic value of Old Point Comfort, overlooked in the years after the American Revolution, was tragically emphasized during the War of 1812.

The lesson was so strong that only in the past year—150 years after the founding of Ft. Monroe—has there been serious talk of abandoning it as a military installation.

Local leaders, now conducting an intensive campaign to save Ft. Monroe, are trying to protect one of the bitter lessons of war.

In the summer of 1813, a British fleet sailed past the abandoned fortifications at Old Point Comfort and anchored off Hampton. About 2,500 troops landed.

Their plundering of Hampton was a dress rehearsal for the British sweep through Washington, D.C., the next summer.

The looting and destruction of Hampton and Washington sealed the fate of Old Point Comfort, an on-again, off-again fort during the first two centuries Anglo-Saxons spent in Virginia.

A study of the nation's coastal defenses was set up under Brevet Brig. Gen. Simon Bernard, a former aide to Napoleon, in 1816.

Hampton Roads and Boston harbor were picked at the sites of "the great naval arsenals of the south and the north." Great fortresses in both areas would protect local docks and shipbuilding facilities and serve as rendezvous points for operations on the eastern coast.

The actual construction of Ft. Monroe began in March 1819. Its designers believed it was the largest fort in the world, not counting forts that surrounded entire cities.

The plans called for the fort to have 412 cannon. It would have a normal garrison of 60 men and 2,625 men in wartime.

The original cost of the construction alone was fixed with startling precision—$816,814.96. Thte estimate was off by a million dollars.

The Bernard board also recommended

building a fort on a natural shoal between Ft. Monroe and Norfolk. It was originally called Ft. Calhoun. The name was later changed to Ft. Wool.

Ft. Calhoun was designed to hold 232 cannon. Its garrison was put at 200 men in peacetime and 1,130 in war.

Like Ft. Monroe, it had a pinpointed estimated cost—$904,355.40—that was about a million dollars short of its actual cost.

Much of the construction was done by military convicts. Ft. Monroe's first garrison, an artillery company, arrived in July 1823 to guard the convicts.

Most of the work at Ft. Monroe was completed by 1835, although building continued for another 10 years. Ft. Calhoun was never finished as the deisgners intended because of an ever-sinking foundation.

Meanwhile, the Ft. Monroe garrison grew and played a role in many military operations of the early 1800s.

A battalion was sent to the Midwest in 1832 to take part in the Black Hawk War. They spent five years fighting the Seminole Indians in Florida and were sent to Mexico in the 1840s.

Troops from Ft. Monroe also were dispatched to two ominous engagements—the Nat Turner uprising at Southampton County in 1831 and John Brown's raid on Harper's Ferry in 1859.

The clouds of civil war were brewing. For the first time in over 200 years, the fortification at Old Point Comfort would be ready when the storm broke.

[From the Newport News-Hampton (Va.) Daily Press, Sept. 4, 1974]

FORT MONROE HAD TWO KEY ROLES IN WORLD WAR I

(By P. J. Budahn)

A training center and a major element of the coastal defense system during World War I, Ft. Monroe underwent a massive construction effort. Buildings went up by the dozen and land was reclaimed from the sea.

The "war to end all wars" helped mold much of Ft. Monroe into its present shape. Peninsula leaders are struggling to keep it by a campaign to save Ft. Monroe from Army close-out plans.

But 60 years ago, the post seemed too important and too productive to ever die.

Throughout the first world war, Ft. Monroe had two important roles. It was headquarters for the defense of the Chesapeake Bay. And it had the Army's coastal artillery school.

Within two weeks after the start of unrestricted submarine warfare by Germany, troops from Ft. Monroe occupied Cape Henry and an adjacent island. They fortified the areas with five- and six-inch batteries.

Across the channel between Ft. Monroe and Ft. Wool, they stretched a submarine net.

But the soldiers of Ft. Monroe did more than wait for an enemy that never came. They trained thousands of soldiers, officers and enlisted men, in the skills of artillery.

Artillery was given new roles on European battlefields and Ft. Monroe graduates were trained to use them. They learned about cannon on railways and tractors, about trench mortars and about new anti-aircraft guns.

An officer candidate course was set up. At one time, 200 prospective artillery officers arrived each week. Because of a serious shortage of trained personnel, many of the new graduates became the instructors for following classes.

The post grew to handle the swelling number of trainees. A landfill project reclaimed about 25 acres of land from Mill Creek.

By one count, over 250 buildings of every description were built between U.S. entry into the war and the armistice 19 months later.

Eventually, Ft. Monroe's part in the war effort spilled over the entire Peninsula.

Langley Field was used to train balloon-carried artillery spotters.

Mulberry Island was bought as an artillery range. Later, when a better range was obtained, Camp Eustis became a major training area in its own right and a staging ground for units destined for Europe.

Armstice found almost 3,000 trainees at Ft. Monroe. Since there seemed to be no need for a large standing army, they were allowed to leave service immediately.

Ft. Monroe slipped into its peacetime routine, training small numbers of men at its artillery school and planning the defense of the Chesapeake Bay in the unlikely event that another war should threaten U.S. shores.

The future of the post seemed assured. It had proven its worth in wartime. Conceived as a fortress before the Civil War, it had adapted to the modern warfare of the twentieth century.

Looking forward from the end of "the great war," it seemed that Ft. Monroe would last forever.

VIRGINIA FAVORS ERTS

Mr. MOSS. Mr. President, the Commonwealth of Virginia has found that several of its agencies have strong interests in exploring the potential for ERTS technology for the future.

Let me read a short portion of a letter I have received from the Honorable Maurice B. Rowe, Secretary of Administration, Commonwealth of Virginia.

Informal experimental applications thus far include regional land use and land cover inventories from ERTS, CARETS—Central Atlantic Regional Ecological Test Site—and high altitude color infrared products and the possible mineral location based on lineaments shown in ERTS images. The results of these, as well as the results of more formal experiments from throughout the United States indicate a great potential for the use of ERTS data—

[I]t would seem that the establishment of an "operational" ERTS program at this time would be of great merit.

Mr. President, I ask unanimous consent that the letter of the Honorable Maurice B. Rowe be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMONWEALTH OF VIRGINIA,
OFFICE OF THE GOVERNOR,
July 17, 1974.

Hon. FRANK E. MOSS,
Chairman, Committee on Aeronautical and Space Sciences, U.S. Senate, Washington, D.C.

DEAR SENATOR MOSS: We appreciate your invitation to comment upon the proposals to establish an operational Earth Resources Technology Satellite (ERTS) system. In response we offer the following views.

Although there is currently no practical, on-going use of ERTS data being made by state agencies in Virginia, several agencies have strong interests in exploring the potential for applications of such technology in the future. Informal experimental applications thus far include regional land use and land cover inventories from ERTS, CARETS, and high altitude color infrared products and the possible mineral location based on lineaments shown in ERTS images. The results of these, as well as the results of more formal experiments from throughout the United States indicate a great potential for the use of ERTS data.

This technology should prove to be a valuable tool in the geographic sciences, planning, and resource management and should continue to be refined and developed toward greater reliability, greater detail, and easier user access and application. Toward this end, it would seem that the establishment of an "operational" ERTS program at this time would be of great merit.

Because the usefulness of remote sensing data is closely related to and in most cases dependent upon the display of the data in map form, it would seem appropriate to assign an operational ERTS program to an agency, such as Department of Interior, U.S. Geological Survey, which already has much experience in mapping and could provide for the integration of this new technology into an existing program.

The Commonwealth of Virginia is looking forward to taking further advantage of the resource of remote sensing technology in the future. We hope these comments add some support to efforts to make this possible.

Sincerely,

MAURICE B. ROWE.

FEDERAL LAWS, RULES, AND REGULATIONS WHICH AFFECT RETAILERS

Mr. GOLDWATER. Mr. President, not the least of the burdens placed on the business community today by the Federal Government is a virtual ton of paperwork.

I believe, if my memory serves me correctly, that as of today it is costing the American taxpayer some $16 billion to handle paperwork such as the regulations and rules which have been placed on business groups throughout our country.

Mr. President, to give you an idea of what I am talking about, I recently received from the National Retail Merchants Association a list of the Federal rules and regulations which affect them and require their attention. I haven't gone to the trouble, Mr. President, of counting each and every regulation, but I can assure you the list exceeds 50 separate items. In this day and age, I do not have to tell any Member of this Senate what an added burden this is to heap on our retail merchants. Many of them have been forced to hire accounting firms to take care of the paper blizzard. These costs quite naturally are passed on to the consumer and force another boost in the price of essential goods and services.

Because of its importance to the Congress of the United States, Mr. President, I ask unanimous consent to have the list of regulations and requirements printed in the RECORD in its entirety.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

FEDERAL LAWS, RULES, AND REGULATIONS WHICH AFFECT RETAILERS

Sherman Antitrust Act (As amended by Miller-Tydings Act)

Clayton Antitrust Act (As amended by Antimerger Act)

Price Discrimination (Robinson-Patman Act)

Federal Trade Commission Act (As amended by Wheeler-Lea and McGuire Fair Trade Acts), and Commission regulations and guides on:

Acquisitions and mergers.

Adhesives—Deceptive Labeling and Advertising of Adhesive Compositions.

Advertising—Children's Premiums on Television.

Advertising Allowances—Advertising Allowances and Other Merchandising Payments and Services.

Amplifiers—Power Output Claims for Amplifiers Utilized in Home Entertainment Products.
Bait Advertising.
Batteries—Deceptive Use of "Leakproof," "Guaranteed Leakproof," etc. as Descriptive of Dry Cell Batteries.
Beauty and Barber Equipment and Supplies Industry.
Belts—Misbranding and Deception as to Leather Content of Waist Belts.
Binoculars—Deception as to Nonprismatic and Partially Prismatic Instruments Being Prismatic Binoculars.
Cigarette Advertising.
Clothing—Discriminatory Practices in Men's and Boys' Tailored Clothing Industry.
Cocktail Glass Frosting—Failure to Disclose the Lethal Effects of Inhaling Quick-Freeze Aerosol Spray Products Used for Frosting Cocktail Glasses.
Debt Collection Deception.
Dog and Cat Food Industry.
Door-to-Door Sales—Cooling-Off Period for Door-to-Door Sales.
Fallout Shelters—Advertising Fallout Shelters.
Feather and Down Products Industry.
Foods—Retail Food Store Advertising and Marketing Practices.
"Free" Merchandise—Use of Word "Free" and Similar Representations.
Furniture—Household Furniture Industry.
Games of Chance—Games of Chance in the Food Retailing and Gasoline Industries.
Gasoline—Posting of Minimum Octane Numbers on Gasoline Dispensing Pumps.
Glass Fiber Fabrics—Failure to Disclose That Skin Irritation May Result from Washing or Handling Glass Fiber Curtains and Draperies and Glass Fiber Curtain and Drapery Fabrics.
Greeting Cards—Discriminatory Practices in Greeting Card Industry.
Guarantees—Deceptive Advertising of Guarantees.
Hairpieces—Labeling, Advertising and Sale of Wigs and Other Hairprices.
Handbags—Ladies' Handbag Industry.
Insurance—Mail Order Insurance Industry.
Ladders—Deceptive Advertising and Labeling as to Length of Extension Ladders.
Light Bulbs—Incandescent Lamp (Light Bulb) Industry.
Lipstick Survey.
Lubricating Oil—Deceptive Advertising and Labeling of Previously Used Lubricating Oil.
Negative Option Plans—Use of Negative Option Plans by Sellers in Commerce.
Photographic Film—Deception in the Use of Word "Free" in Connection with Sale of Photographic Film and Film Processing Service.
Pricing—Deceptive Pricing.
Radiation—Advertising Radiation Monitoring Instruments.
Radios—Deception as to Transistor Count of Radio Receiving Sets, Including Transceivers.
Schools—Private Vocational and Home Study Schools.
Sewing Machines—Misuse of "Automatic" or Terms of Similar Import as Descriptive of Household Electric Sewing Machines.
Shell Homes—Advertising Shell Homes.
Shoes—Shoe Content Labeling and Advertising.
Sleeping Bags—Advertising and Labeling as to Size of Sleeping Bags.
Tablecloths—Deceptive Advertising and Labeling as to Size of Tablecloths and Related Products.
Television Sets—Deceptive Advertising as to Sizes of Viewable Pictures Shown by Television Receiving Sets.
Textiles—Avoiding Deceptive Use of Word "Mill" in Textile Industry.
Textiles—Care Labeling of Textile Products.
"Tile," Ceramic.
Tires—Tire Advertising and Labeling.
Wall Paneling—Decorative Wall Paneling Industry.
Watch Industry.
Antitrust Civil Process Act.
Wool Products Labeling Act.
Fur Products Labeling Act.
Textile Fiber Products Identification Act.
Flammable Fabrics Act.
Fair Packaging and Labeling Act.
Consumer Product Safety Act.
Federal Hazardous Substances Act.
Poison Prevention Packaging Act.
Federal Energy Administration Act of 1974.
Emergency Petroleum Allocation Act of 1973.
Emergency Daylight Saving Time Energy Conservation Act of 1973.
Energy Supply and Environmental Coordination Act of 1974.
Federal Energy Office Regulations.
Consumer Credit Protection Act (Truth-in-Lending Act) Regulation Z.
Civil Rights Act of 1964 (Title VII).
Civil Rights Act of 1968 (Title I).
Civil Rights Act of 1866, 1870, 1871.
Equal Employment Opportunity Regulations regarding:
Records and Reports.
Sex Discrimination.
Religious Discrimination.
National Origin Discrimination.
Employment Testing.
Fair Labor Standards Act.
Work Hours Act.
Labor-Management Relations Act of 1947.*
Labor-Management Reporting Act and Disclosure Act of 1959.
Williams-Steiger Occupational Safety and Health Act of 1970 Social Security Act (as amended).
Small Business Act (as amended).
Internal Revenue Code of 1954.
Tariff Act of 1930 (as amended).
Securities Act of 1933.
Securities Exchange Act of 1934.
Fair Credit Reporting Act.
Food, Drug and Cosmetic Act.

BRAZIL DEATH SQUADS

Mr. ABOUREZK. Mr. President, since World War II we have given both economic and military aid to Brazil in the amount of $3.8 billion. In those years that country has achieved a meteoric rise in its gross national product and in other market figures. It is a place very inviting for foreign investment.

But as these figures rise for Brazil, the reports of torture and murder are also on the rise. Particularly since the coup in 1968, Amnesty International and other groups have received countless reports and eyewitness documentations of electric shock, water torture, beatings, burnings and the like.

In a September 4, 1974 article, the Washington Post makes some disturbing estimates on the number of "executions" carried out by the "Death Squad," a civilian vigilante group which includes large numbers of off-duty policemen. Similar to other unofficial groups in Latin America, like La Mano Blanca in Guatemala, it is out of the control of the very regime that spawned it with rightwing law-and-order rhetoric.

Brazil's motto, "Order and Progress," gives a clue as to why such violence and disorder accompany a desirable investment climate. Wide swaths are being cut through the Amazon jungle for roads and factories; industrialization at low wages and with no curbs on pollution is pushed by the Brazilian government at an incredibly fast rate. There are more and more nonessential consumer goods provided for the middle and upper classes. At the same time that wealth is accumulating in a few hands the vast majority of Brazilians are actually sliding lower on the poverty scale. As protests have mounted over this situation, decree after decree has been issued by Brazilian rulers taking away more civil liberties. One torture victim joked bitterly in a film interview that I saw.

Torture is the only democratic institution we have left—they do it to everyone regardless of class, race or religion.

With this picture in mind, one can see that the $60 million in military credit sales due from the United States to Brazil in fiscal year 1975 will not be going to protect its borders from Uruguay, Argentina or Bolivia—Brazilian citizens are the enemy that will be fought with these weapons. Institutionalized repression by Brazil's rulers, paramilitary activities by groups closely associated with the police and security forces in that country. Do the American people approve of their tax dollars pouring into a country in this? Does Congress?

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BRAZIL DEATH SQUADS—APPARENT KILLINGS BY POLICE ON RISE

(By Bruce Handler)

RIO DE JANEIRO.—Widespread police brutality—including killings by police-linked "Death Squads"—continues virtually unchecked in Brazil, and President Ernesto Geisel has asked for a crackdown.

The issue this time is not the torture of leftist political prisoners, for which Brazil's military government has been frequently condemned overseas, but police violence at the local level.

Geisel, a retired army general who preaches a stern law-and-order line, announced that he was "appalled and shocked" by a recent impromptu execution in the crime-ridden Rio suburb of Nova Iguacu, in which witnesses saw two state policemen stand two teen-aged boys against the wall of a barber shop and mow them down with a barrage of submachine-gun and pistol shots.

The president called the slayings "perverse" and demanded "rigorous punishment."

Rio de Janeiro state troopers Artur Sergio Machado and Genesio Vicente Viana later were arrested in connection with the crime.

Local residents described one of the victims, Pedro Paulo da Silva, 17, as a troublemaker and a bully—but hardly a dangerous criminal. No one even knew the name of the other boy.

Nova Iguacu is a stronghold of a Death Squad, a vigilante gang made up of off-duty policemen who summarily execute petty criminals in an effort to "clean up crime." Death Squad killers usually tie the victim's hands behind his back, shoot him dozens of times and then dump the body on a deserted road. Often they leave a crudely drawn skull and crossbones on the corpse, with the initials E.M.—for the Portuguese "Esquadrad da Morte," or "Death Squad."

Last year there were 99 Death Squad-style slayings in Nova Iguacu. So far this year the rate has risen to around 15 a month.

*(Wagner and Taft-Hartley Acts.)

Since they first appeared in the 1950s, Death Squads in various cities have been held responsible for—or proudly have taken responsibility for—1,500 to 2,000 killings. Only a handful of Death Squad murderers—all of them policemen—have been arrested, tried, convicted and sent to prison.

"The president can try to eliminate this type of police violence, but he won't succeed," one of Rio's top crime reporters said. "These policemen are like the Mafia. They don't go around wearing badges that say: 'I'm from the Death Squad,' and when they do get caught, they never tell on their friends."

The newsman described Death Squad gunmen as "cold and calculating—and great shots." He said they are capable of killing three, four or five times, just as though it were like getting up in the morning and eating breakfast.

Death Squad victims usually are muggers, rapists, car thieves and drug pushers—people the police consider "noxious to society"—the reporter went on. He said that police forces, especially in the tough Rio suburbs, are fed up with what they consider excessive leniency in the courts, so they take justice into their own hands.

Gov. Raimundo Padilha of Rio de Janeiro state has pledged to fire such policemen, who he says "don't have the least respect for human life."

Many Brazilians, including nonviolent police and ordinary citizens, are sympathetic with Death Squads. In Sao Paulo, the nation's largest city, former police inspector Astorige Correia de Paula e Silva, who was serving 16 years for a Death Squad murder, walked out of a local jail recently, after it was rumored that he was about to be transferred to a state prison. That would have caused him to lose his special jail room, which had a TV set, hi-fi and refrigerator and was open to women visitors.

Paula e Silva turned himself in a few days later, and it appears that he will be allowed to keep his well-appointed cell. Twelve policemen accused of helping him escape were suspended for 60 days.

A jury in the northeastern state of Bahia last week acquitted fired policeman Manoel Quadros in a murder trial in which he was accused of belonging to a Death Squad. Witnesses testified that Quadros had a reputation as one of the most sadistic policemen in the region.

Quadros allegedly burned prisoners with cigarettes and liked to chop up the bodies of already dead criminals with a machete. Three more murder charges still hang over him.

The American movie "Magnum Force," which depicts a fictional death squad within the San Francisco police, just opened in Rio. Distributors think it will be a big hit. The film had no trouble getting censorship clearance from the federal police, a requirement for all movies to be shown in Brazil.

A film industry executive here said: "We were a little worried at first. I think we were helped by the fact that in this picture the policemen who take the law into their own hands wind up getting killed by a law-abiding policeman."

AMBASSADOR RODGER DAVIES

Mr. PELL. Mr. President, the front line of our Nation's security is our Foreign Service and the latest casualty on that thin line is Ambassador Rodger Davies.

He was a fine, decent, and good man who had the respect of all those with whom he came in contact. It is hard to understand why anyone would wish to harm him except as a symbol of U.S. policies, policies for which he was not necessarily responsible.

He, Ambassadors Cleo Noel and John Gordon Mein lead the ranks of our Foreign Service officers who have been killed in the line of duty. Actually, over the past decade nearly 50 Americans in the Foreign Service, or members of their families, have been the victims of acts of violence in the line of duty abroad. Of these, 9 have been assassinated and 13 kidnapped.

As a former Foreign Service officer presently in the center of our Government—far removed from its dangers, I commend and congratulate my former colleagues who serve their country at hazardous posts often unsung and unpraised.

In this regard, I ask unanimous consent to have printed in the RECORD an editorial that appeared in the Washington Post on Wednesday, August 21, 1974.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE DEATH OF AMBASSADOR DAVIES

The murder of Rodger Davies, the American ambassador to Cyprus, stands as a warning that the diplomat's trade is becoming a dangerous one. As hit-and-run terrorism becomes an increasingly common form of politics, the men who represent this country become the targets of a peculiarly vengeful and hysterical strain of anti-Americanism. It is quite true that these assaults stain and discredit the organizations that carry them out, but that argument is hardly likely to dissuade them. It is in the nature of the terrorists to take a perverse pride in the irrationality of their methods.

At the time of his death, Ambassador Davies was serving his country with intelligence, dignity and great skill. He arrived at his post just before the outbreak of the current crisis and quickly earned two letters of commendation from Secretary Kissinger for his cool, competent performance under circumstances that combined a local civil war with a foreign invasion. The extreme ugliness of the affair is indicated by the reports that it was gunmen of the Eoka-B who attacked the embassy under cover of a general riot and raked it with fire from high-powered weapons. Eoka-B is the bloody-minded Greek Cypriot underground that played a role in the original attempt by the Greek colonels last month to overthrow the Cypriot government. That coup, of course, brought the Turkish landings down on the island. Now that they are defenseless against the Turks overrunning their island, it is characteristic of the terrorists that they should seek revenge by shooting the American ambassador.

Over the past decade, a dozen American diplomats have been killed on duty. When John Gordon Mein was machine-gunned in Guatemala City in 1968, it was the first time in our history that an American ambassador had been assassinated. It was, apparently, a failed attempt at a political kidnaping. Last year our ambassador to the Sudan, Cleo A. Noel Jr., was shot in cold blood by Palestinian gunmen who also killed the embassy's charge d'affaires, G. Curtis Moore. The chief political effect of these killings was to erode sympathy in this country for the Palestinian cause, and to increase suspicion of other Palestinians' legitimate aims. But that consideration does not, evidently, weigh heavily in the councils of the Black September group.

Again, vice consul John S. Patterson was kidnaped last March from the United States consulate at Hermosillo, Mexico. His body was found a month ago. The kidnapers, who demanded at one point a half a million dollars' ransom, called themselves the People's Liberation Army of Mexico. Presumably they were attempting, unsuccessfully, to emulate the kidnaping a year earlier of Terrance Leonhardy, the American consul general at Guadalajara, who was held for $80,000 in cash and the freeing of 30 prisoners by the Mexican government.

The death Monday of Ambassador Davies is a matter of profound sorrow to his children and his friends. It cannot change American policy, or advance the causes that the gunmen represent. Diplomats in Nicosia, and in many other capitals, have been struggling to effect an end to the fighting on Cyprus. In view of the present perilous position of the Greek community there, for Greek Cypriots to attack the American embassy seems almost a suicidal gesture.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. All time allotted for the transaction of routine morning business has expired.

UNFINISHED BUSINESS—S. 707—TEMPORARILY LAID ASIDE

Mr. MANSFIELD. Mr. President, I move that the unfinished business be laid before the Senate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered, and the unfinished business, S. 707, will be——

Mr. MANSFIELD. Mr. President, I ask unanimous consent that it be laid aside temporarily.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COPYRIGHT LAW REVISION

The ACTING PRESIDENT pro tempore. The Chair will state to the distinguished majority leader that at this time the Senate will resume consideration of S. 1361, a bill to amend the copyright law. The unfinished business, S. 707, will be temporarily laid aside until the completion of the action on S. 1361, or the close of business today, whichever shall come first.

The bill will be stated by title.

The second assistant legislative clerk read as follows:

A bill (S. 1361) for the general revision of the copyright law, title 17 of the United States Code, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. McCLELLAN. Mr. President——

Mr. ERVIN. Mr. President, if the Senator from Arkansas will yield, I will ask unanimous consent that William Pursley be allowed the privilege of the floor to assist me in the consideration of this pending business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent to have Mr. Dennis Unkovic, of the staff of the Committee on the Judiciary, present on the floor during the debate on the copyright bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Chair recognizes the distinguished Senator from Arkansas and he may yield time as he sees fit.

Mr. McCLELLAN. I am glad to yield to anyone who wishes a unanimous consent.

Mr. PASTORE. Mr. President, I ask unanimous consent that Nicholas Zapple and John Hardy of the Commerce Committee be allowed the privilege of the floor during the debate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that Hilary Hilscher be allowed the privilege of the floor during the debate and vote on this measure.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HRUSKA. Mr. President, I ask unanimous consent that J. C. Argetsinger and Charles Bruce, members of the Judiciary Committee staff, be allowed the privilege of the floor during the debate and vote on this measure.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I would like to ask unanimous consent that amendment No. 1846 be voted on before any other amendment, including amendments made by the Commerce Committee.

The PRESIDING OFFICER. Is there objection to the request of the distinguished Senator from North Carolina to the consideration of his amendment?

Mr. McCLELLAN. Mr. President, reserving the right to object, and I shall not object, but I have been advised there will be a motion made to recommit this bill.

If that is true, if that should be made, I suggest the motion be made now, let us save our energies and time.

I do not care about going through a lot of futile motion here if the Senate does not want this bill. Let us get it decided and send it back, that is my idea, not to waste a day's time if the Senate does not want to consider the bill.

Mr. PASTORE. Will the Senator yield?

Mr. McCLELLAN. I yield to the Senator.

Mr. PASTORE. I agree with the Senator 100 percent.

This is a highly controversial bill. I doubt very much that the House will take any action. They have not had hearings. The Judiciary Committee of the House will have the nomination of Nelson Rockefeller and, of course, we are driving hard to adjourn by October 15.

It is my information that even if we do come back after the election, in all probability it will not be considered by the House and I think it would be rather unfortunate if we did expend a week and then ended up with sending a bill, even if we pass a bill, over to the House where no action is going to take place.

Mr. McCLELLAN. Mr. President, I make no further suggestion. We worked on it for years, let us wait until the House passes a bill before we take any further action.

Mr. PASTORE. I say "Amen" to that. I agree 100 percent.

Amen, amen, amen.

Mr. McCLELLAN. Mr. President, we do have in this bill a number of things that are not controversial, that I think should be enacted into law, but the purpose of getting this bill up at this time would be to try to let the Senate work its will.

It was anticipated possibly that the House could not act, but if the Senate worked its will and we knew what it was we could immediately introduce the same bill the Senate passed early in the next session of Congress, and pass it, and then let the House take that bill, or its own bill, and try to get copyright reform legislation enacted next year.

Now, this is not a personal matter with me. I worked hard to try to serve the best interests of this country in getting out a bill and getting it to the floor where the Senate could work its will. Whatever its will is is going to be satisfactory to me, except that I do not propose to stand here today to go through a lot of futile effort to enlighten the Senate and inform the Senate what this bill contains and give it an opportunity to settle issues. If it is not ready for the issues, let us send the bill back and forget it.

The ACTING PRESIDENT pro tempore. Without objection, the request of the Senator from Nebraska (Mr. HRUSKA) and the Senator from Alaska (Mr. STEVENS) as to privilege of the floor will be granted.

Without objection, it is so ordered.

Now, the Senator from Arkansas reserved the right to object to the unanimous-consent request of the distinguished Senator.

Mr. McCLELLAN. I reserve further the right to object if anyone else wants to be heard after what I have said, all right. If not, let us get the motion. I do not know whether we want to vote today, Mr. Leader, or put it over until Monday morning. It makes no difference to me.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the distinguished Senator from North Carolina?

Mr. McCLELLAN. To state the request again, I reserve the right to object until this other question is settled, Mr. President.

Mr. MANSFIELD. It will be the pending amendment.

Mr. McCLELLAN. I have no objection to it being the pending amendment.

Mr. ERVIN. I agree with the Senator from Arkansas, that we should vote on this amendment first.

Mr. McCLELLAN. I agree with that.

Mr. ERVIN. I also agree with the Senator from Arkansas that it would be futile to debate the merits of the amendment if there is a motion to recommit. I will now make a motion that——

Mr. MANSFIELD. Would the Senator not make that motion at this time? I think the Senate should be notified. Permission has been granted, I believe, to the Senator from North Carolina, that his amendment will be the pending business.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the distinguished Senator from North Carolina? The request is that amendment No. 1846 be considered first.

Mr. McCLELLAN. Reserving the right to object, I do not understand his request. Apparently we do not understand it.

Mr. ERVIN. This was to clear up a difficulty under the rule since the bill was referred to two committees. The Commerce Committee made amendments which are not as comprehensive as this amendment. The distinguished Senator from Rhode Island has agreed to cosponsor this amendment. In case we have a vote on the merits, I wanted this to be voted on first. But I do agree with the Senator from Arkansas that we ought to pass on the motion to recommit.

I would at this time like to make such a motion.

Mr. MANSFIELD. Mr. President, would the Senator withhold that? I think the Senate should be placed on notice rather than to be caught short. But with the understanding that the distinguished Senator from Arkansas will yield to the Senator from North Carolina to call up his motion to recommit, I would like to have permission at this time to put in a request for a quorum call and to have all Senators notified so that they will be aware of what is developing.

Mr. ERVIN. I think that is quite appropriate.

Mr. McCLELLAN. Mr. President, the only thing I want to be certain of is if this bill is going to be recommitted, I want it recommitted now or forget about it. If it is not going to be recommitted, let us get to work on it and do the best we can.

Mr. MANSFIELD. That would be the first order of business because the Senator would be recognized as soon as the quorum call is completed.

Mr. McCLELLAN. The only question that occurs to me is I do not think anyone anticipated that the bill would be passed on today, and a number of Senators are absent. It might be well, and I make this as a suggestion for the consideration of the leadership, to let the motion be made, let the bill go over to Monday morning at a given time, and give everybody an opportunity to vote on it. Some Senators may feel like they were not notified. Such a course of procedure could be followed. I just submit that to the leadership.

Mr. MANSFIELD. If the Senator will yield, the Senate was on notice that we would begin today, that this would be the pending business. When Senators leave on the basis of that information, I think they ought to take their own chances. But it is up to the Senate to decide.

Mr. McCLELLAN. I just made that suggestion to the leadership. I did not know. If he is satisfied that they had their opportunity, it is all right with me.

Mr. PASTORE. If the Senator will yield, it was announced some time ago that this would be the pending business.

Mr. McCLELLAN. I know that, but I know we often have pending business here, and we often do things to accommodate Senators who are out campaigning, and so forth. I have no objection to doing it today. I simply made that suggestion. I do not know, but there may be Senators who would want to be present.

Mr. STEVENS. Is there a chance that we might have a unanimous-consent agreement as to the time at which we might vote on this motion to recommit today?

Mr. McCLELLAN. We can vote on it now, as far as I am personally concerned. The question that ought to be determined

first is: Do we want to carry it over till Monday or act on it today?

Mr. STEVENS. I think in view of the conversations, we ought to be able to vote on it by about noon.

Mr. McCLELLAN. We can vote on it before then. We can vote as soon as we get a quorum.

Mr. HRUSKA. Will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. HRUSKA. I am informed by the Republican staff that there are a number of absentees on this side of the aisle. I am not informed as to how many are absent on the Democratic side. I fully sympathize with the plight of the majority leader. Notice was served and we should all be present. But the people who are here are not to be blamed for absentees who are not here. If we have some absentees on this side, I would like to make inquiry whether a head count has been made on the Democratic side to see if there are any on that side.

Mr. MANSFIELD. I would be delighted to tell the Senator. I would point out if Senators are not here, they are away at their own peril.

Mr. HRUSKA. That is right.

Mr. MANSFIELD. We also have some absentees on this side. I would hope we have a quorum. That is all we need. It does not look good coming back on a Wednesday and on a Friday have a number of Members absent.

Mr. PASTORE. If the Senator will yield, I had a very important appointment back in my State, but I stayed here in order to work on this bill. I quite agree with the Senator from Arkansas. His point is why waste a lot of breath, why waste a lot of time, why waste a lot of effort and a lot of sweat if this is going to be recommitted anyway. Let us not wait until the end in order to do it. Let us do it now and if the motion to recommit does not prevail, then we will begin to work on amendments. I think he is absolutely right. We ought to vote by 1 o'clock.

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum, and I insist it be a live quorum call.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. INOUYE). Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote occur at 3 p.m. on Monday next on the motion to recommit which is to be offered by the Senator from North Carolina (Mr. ERVIN) and the Senator from Rhode Island (Mr. PASTORE).

I ask unanimous consent that, if this request is agreed to, beginning on 2 p.m. on Monday next, the time be equally divided between the distinguished chairman of the committee, the Senator from Arkansas (Mr. McCLELLAN), and the cosponsors of the motion, the distinguished Senator from North Carolina (Mr. ERVIN) and the distinguished Senator from Rhode Island (Mr. PASTORE).

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, I do not intend to object, but I wonder whether at this point the motion could either be offered or at least read by the clerk.

Mr. PASTORE. It is a motion to recommit.

Mr. GRIFFIN. It is a straight motion to recommit or a motion to recommit with instructions?

Mr. ERVIN. I propose to make a motion. If the majority leader will yield, I propose to move to recommit to the Judiciary Committee, with the direction that it hold hearings on the provisions of the bill which undertake to give royalties to recording companies and performing artists.

Mr. GRIFFIN. I thank the Senator.

Mr. McCLELLAN. Mr. President, has the Senator asked unanimous consent?

Mr. ERVIN. No.

Mr. McCLELLAN. If I correctly understand, the instruction would be to hold hearings on this one issue.

Let me ask another question, as to jurisdiction: To which committee will this matter go, and who will hold the hearings? Other committees have asserted jurisdiction and have had this matter. I am perfectly willing to turn it over to them from now on and let them hold hearings from now until eternity and report it back. I have held hearings and held hearings, and I am tired of holding hearings.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. PASTORE. If the motion of the Senator from North Carolina should be agreed to, then I would expect that the Judiciary Committee could assume exclusive jurisdiction. While it does involve CATV, we in our committee have already studied it, and I do not think we have any further reason to deal with that matter. As a matter of fact, the controversial item is section 114, about which the Senator from North Carolina speaks.

Mr. McCLELLAN. I will undertake to carry out the will of the Senate as to instructions, but hearings have already been held, and Senators can make up their minds as to whether or not they want to vote for it. I do not know what else can be done. Give me some indication of the kind of hearings.

Mr. ERVIN. The people who are interested in this matter are entitled to be heard. Hearings have been held in the past, but they were held a number of years ago, and there have been none recently. At the time the hearings were held originally, the broadcasters and the juke box operators who were opposed to the imposition of these so-called new royalties and they made such a strong showing that the bill could not get out of committee. I think we need new hearings to give these people an opportunity to be heard.

Mr. McCLELLAN. If that is all, I cannot see why we cannot delete that section and pass the bill.

Mr. PASTORE. That is all right with me.

Mr. McCLELLAN. The point I am making is that I think everybody knows how they are going to vote on that issue. If we want to waste more time and delay this bill, that is perfectly all right with me. If the only issue is to hold hearings, the matter can be voted up or down, and we can handle the bill.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the majority leader?

Mr. PASTORE. Mr. President, if the Senator will yield, Senator COTTON has an amendment that deals with a grandfather clause insofar as CATV is concerned. I do not know how he might feel about it.

I would be perfectly willing to have the bill recommitted with instructions to delete section 114 and related sections. Then it can be reported back to the floor, and then the Senate can work its will on the remaining parts. That would be satisfactory to me, and I think it would satisfy the Senator from North Carolina.

Mr. ERVIN. I think it might be better to have an instruction to amend the bill so as to incorporate amendment 1846, because it is necessary to strike out a number of references.

Mr. McCLELLAN. As I said before, I have no interest one way or the other in the outcome of this issue. I might have an opinion and vote one way or the other, but I have no strong feelings about it. It has occurred to me that it is no great disappointment to me if the Senate does not want this bill. I have worked on this matter for 7 years, and I can let it rest a while.

Mr. PASTORE. The reason why the Senator from North Carolina and I are opposed to section 114 and the related sections is that it allows and creates a new royalty for certain artists who sing and recording companies. Many singers, male and female, go to Las Vegas and make $2,000 a week.

Mr. MANSFIELD. More than that.

Mr. PASTORE. More than that.

In this time of inflation, when many people in this country have to live on $200 a month, on social security, the Senate of the United States is going to grant a royalty so that every time you listen to a record that is played on radio and TV, you have to pay the singer a couple of pennies. It is ridiculous to me. I do not think the big stars of show business need this kind of help. As a matter of fact, they are among the big money makers of the country, and I say God bless them. They are good singers. They get paid every time they make a record. Now we are going to pay them every time the record is played by a radio station. I do not think that is fair.

I think we have a lot more serious problems in the Senate than to indulge in that sort of thing at this time. That is why we are opposed to that particular section.

Insofar as the other parts of the bill are concerned, questions are raised about CATV. At the present time, a radio station or a television station that serves the public free is required to pay a certain royalty for copyrighted material, which is already authorized under the law, to a creator of the song, the man who writes the song. Because of a Supreme Court ruling, if CATV takes the

TV picture out of the air from a broadcasting station and retransmits it to a subscriber who pays the cable company, they do not have to pay a royalty; and all this bill says is that they have to pay a certain royalty, just as the broadcaster on television who gives it to the public free. This, too, is modified by the Cotton amendment.

I do not find fault with the requirement that a cable system pay a reasonable fee.

I do not find too much fault with that. But I do find fault with creating a new royalty for a singer or another artist, who, up to this time, is not entitled to it, so that every time a radio station plays his records, the station has to pay him a royalty. I think it is unfair. And the recording company that makes the record gets paid a certain fee.

Now, that is going a little bit too far, when too many people in this country are hungry.

The PRESIDING OFFICER. Is there objection?

Mr. HRUSKA. Mr. President, reserving the right to object, it would appear that the section having to do with the performer's royalty is the obstruction, the obstacle to consideration of the bill. May I suggest, Mr. President, that the Senator from North Carolina might consider having a vote by unanimous consent occur on the deletion of this particular section and have that vote occur at 2:30 or 3 o'clock on Monday.

If the amendment is agreed to, that obstacle will be removed. If, on the other hand, the amendment is defeated, the Senator from North Carolina could still make his motion to recommit with instructions if he so desires.

Mr. ERVIN. I think the Senator from Nebraska has made a very helpful suggestion. I think that if we can agree to vote on the amendment at some reasonable time on Monday, we could debate——

Mr. MANSFIELD. I modify my unanimous-consent request so that the vote on the amendment, instead of on the motion to recommit, would occur at the hour of 3 o'clock, under the same conditions as requested before.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Mr. HUGH SCOTT. Reserving the right to object, I have no objection to the 3 o'clock. I simply want to clarify something.

May I inquire whether, after that motion to delete, we may then have a vote on recommital if desired? Is that the intent of the Senators involved?

Mr. PASTORE. Right.

Mr. McCLELLAN. Will the Senator yield?

Mr. HUGH SCOTT. Yes.

Mr. McCLELLAN. If we are going to have a motion to recommit and know that we are going to have it, let us have it and not waste any more time. That is what I was trying to get at. There is no use in going through all the motions here of adopting amendments and rejecting amendments, and then have the Senate recommit it. If that is the will of the Senate now, let us recommit it.

Mr. HUGH SCOTT. Reserving the right to object, I am supporting the bill, as is known, and I am anxious to support the Senator from Arkansas. If he wants a motion to recommit now, I personally have no objection, to see where the votes lie. If we cannot vote now, I hope that we will go through the 3 o'clock arrangement on Monday to accommodate a number of Senators, including this one.

I should like to add to the suggestion made the fact that while I strongly support the performers' royalty in my amendment—and I strongly believe in it—I believe that performing artists also are capable of going hungry, so I am not moved by the concern of my friend from Rhode Island over the hungry. Anybody can go hungry, including a performing artist who strikes it rich once and never writes another tune. He cannot live forever on that tune unless there is some benefit to him.

Mr. PASTORE. He can run for the Senate.

Mr. HUGH SCOTT. He can always run for the Senate. The Senator from Rhode Island is a performing artist in his own right.

Mr. PASTORE. But I do not want a fee every time I get up to talk.

Mr. HUGH SCOTT. If he speaks outside of this body, as he well knows, he is entitled to a fee, and that is his prerogative.

Mr. ERVIN. Will the Senator yield?

Mr. HUGH SCOTT. What I am trying to get at will be lost unless I get at it at greater speed. That is, if we do not have the votes for the performing artists' royalty, and it seems we do not, we may have to do this by unanimous consent. If we do, I hope there will be a commitment to hold hearings in the Committee on the Judiciary under the chairmanship of the chairman of the subcommittee, the Senator from Arkansas (Mr. McCLELLAN), so that we can then determine the pros and cons.

I believe, and I am sure the Senator from California agrees with me, that this is a good amendment. I do not want to lose it forever. I have been fighting for this amendment since 1944.

Mr. CRANSTON. Will the Senator yield?

Mr. HUGH SCOTT. I have been fighting for it since I was in the other body. Yes, I yield.

Mr. CRANSTON. I appreciate the Senator's amendment; I support it. I returned from California to support it and to be here when the bill is considered. However, I have no objection to it going over until Monday. I should like to know if we are going to have any other votes today if this is put over until Monday.

One other point. I wish the Senator from Rhode Island would take into account the fact that with so many performing artists coming from California, he should be more prudent about who he suggests should run for the Senate of the United States.

Mr. PASTORE. May I answer that?

Mr. MANSFIELD. Yes.

Mr. PASTORE. Next to you, anybody.

Mr. MANSFIELD. We have two of them there, you know.

The PRESIDING OFFICER. Is there objection?

Mr. HUGH SCOTT. The Senator from North Carolina agreed to my suggestion that if it is to be deleted, and I hate to preside at the burial of a friend, but if it is deleted, may we have an understanding that there will be hearings held? Is that the understanding of the Senator from North Carolina?

Mr. ERVIN. If it is deleted, it is dead.

The Senator says that he has been working for this since 1944. I do not think there would be any use in hearings if it is deleted, because, as a matter of fact, if the Senate committee had considered the bill as it passed the House, this would never have been in it, because they would have had to move to amend, and eight members of the Committee on the Judiciary are opposed to this performing artist warranty. They think it is against the Constitution and not good economics. So if it is deleted, the Senator would have to offer another bill in the next session or some other time.

Mr. HUGH SCOTT. Still reserving the right to object, I think the Senator will recall that this was reported out of the Committee on the Judiciary by a majority vote

Mr. ERVIN. Oh, no. It was 8 to 8.

Mr. HUGH SCOTT. It still was reported out.

Mr. ERVIN. The bill that passed the House without these warranties in it. The bill that the Senator is talking of was rewritten before it was introduced. Then, when it was put in the bill and I offered an amendment to strike them, I got eight votes against me, and my amendment failed because it did not get a majority vote.

Mr. HUGH SCOTT. The Senator is acting like a Philadelphia lawyer, I am afraid. He lost.

Mr. ERVIN. I lost because, if they had taken the House bill and allowed us to vote on the House bill, the Senator from Pennsylvania would have had to act like a Philadelphia lawyer and offer an amendment to put in these new, bogus royalties. Then he would have lost the same way I lost, by an 8 to 8 vote.

Mr. HUGH SCOTT. All I am suggesting is that the Senator lost in committee and he is liable to win on the floor. But I hope he will be gracious in victory, and I hope he will be able to explain it to all of the thousands of performing artists in the country, who are deprived of a benefit to which I think they have a rightful claim.

Mr. ERVIN. I can, because the Constitution of the United States does not give the Congress the power to give a warranty to a performing artist or a record maker. It only gives it to authors.

Mr. HUGH SCOTT. I cannot agree with the Senator. I know the Constitution is his personal property and I hesitate to question him.

Mr. ERVIN. I do not propose to stand by and see the Senator from Pennsylvania mangle the Constitution.

Mr. HUGH SCOTT. The Senator may be sure that I do not mangle the Constitution. I read it differently from the Senator from North Carolina, and I must say in all modesty I read it better. But since the Senator wishes to shield himself behind the Constitution, and thereby

deny money that people are needing, I must submit that he has the votes. If the Senator will not agree to a hearing, I can introduce another bill and we can hold hearings in the Senator from Arkansas' committee.

Mr. ERVIN. If the Senator from Pennsylvania thinks we have the votes and we can agree to this amendment with a voice vote, we can then proceed on Monday with other amendments.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I wish to add to that resolution the proviso that if the amendment which the distinguished Senator from North Carolina (Mr. ERVIN) offers is rejected, it will be followed immediately by a motion to recommit, to be offered by the distinguished Senator from North Carolina.

The PRESIDING OFFICER. Is there objection?

Mr. McCLELLAN. Mr. President, reserving the right to object, if there is going to be a motion to recommit in connection with this amendment, I would certainly hope we could make the motion now and vote on it first.

Several Senators addressed the Chair.

Mr. MANSFIELD. Only if it fails.

Mr. ERVIN. Then a motion would be in order?

Mr. MANSFIELD. Yes.

Mr. ERVIN. All right. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. It is understood that this motion to recommit will be offered only if the first motion is defeated.

Mr. HUGH SCOTT. Mr. President, reserving the right to object, just to be clearer, I would like to make the point that I would have no objection to a motion to recommit occurring today. I would hope it would occur before 1 o'clock, or 1:15, or something, but if the Senator is prepared to make the motion to recommit today, I would prefer it.

Mr. ERVIN. I would say that I would not care to make a motion to recommit if the amendment is agreed to. I would have no reason to.

Mr. MANSFIELD. Mr. President, may I ask the distinguished Senator from North Carolina if he intends to make his points in support of his proposals this afternoon?

Mr. ERVIN. Yes, I will be delighted to.

Mr. HUGH SCOTT. Mr. President, will the Senator from Montana permit a further suggestion?

Mr. MANSFIELD. Yes, indeed.

Mr. HUGH SCOTT. Would it be possible to have a vote on the motion to recommit before the vote on the performing artists amendment?

Mr. ERVIN. No. If we agree to the amendment, I would withdraw the motion to recommit.

The PRESIDING OFFICER (Mr. INOUYE). The Chair has been advised by the Parliamentarian that there is pending before the body a unanimous-consent request submitted by the Senator from North Carolina.

Mr. HUGH SCOTT. Will the Chair state the request?

The PRESIDING OFFICER. Is there objection to that request?

Mr. HUGH SCOTT. Will the Chair restate the request, please?

The PRESIDING OFFICER. That there be no votes taken before the consideration of his amendment, and that it be in order for him to offer his amendment at this time.

Mr. McCLELLAN. Mr. President, reserving the right to object, as I understand the situation now, this amendment of the distinguished Senator from North Carolina is the pending business.

Mr. MANSFIELD. That is correct.

Mr. McCLELLAN. It is the pending business, and there will be no votes on any other amendments unless some procedure provides for it. As of now, there would be no votes on any other amendments until this amendment is disposed of.

I would think, however, that a motion to recommit is in order at any time. I do not know.

Mr. HUGH SCOTT. That is what I am trying to preserve here, the right to move to recommit at any time, rather than to have that a part of the unanimous-consent request. I would prefer it that way.

Mr. ERVIN. I have withdrawn my motion to recommit. I would not care to renew it if the amendment is adopted.

Mr. MANSFIELD. But with the proviso that if the pending amendment is defeated on Monday, then it will be followed by a vote on the motion to recommit.

Mr. HUGH SCOTT. I would like it understood that any Senator is free to make a motion to recommit prior to the vote on the Ervin amendment.

Mr. MANSFIELD. That is his right.

Mr. ERVIN. Mr. President, if the Senator from Pennsylvania will move to recommit now, I will cosponsor his motion.

Mr. MANSFIELD. Mr. President, I would hope the Senator would not, because a number of Senators have been led to believe the vote would occur on Monday, and in the best interests of all concerned I would appreciate it if the Senator would not make such a motion.

Mr. HUGH SCOTT. I defer to the distinguished majority leader, because in his case the quality of mercy is not strained, and I have found a certain strain in my conversation with the Senator from North Carolina, whom I also respect and admire.

Mr. ERVIN. The quality of the Constitution has not been strained by the Senator from North Carolina; it has been strained by my friend from Pennsylvania.

Mr. McCLELLAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLELLAN. Is there any motion or unanimous-consent request now pending?

The PRESIDING OFFICER. The unanimous-consent request submitted by the Senator from North Carolina is pending.

Mr. McCLELLAN. I thought it had been agreed to.

Mr. HUGH SCOTT. Mr. President, I think under the circumstances we had better let it go, with the understanding that any Senator may move to recommit prior to this vote on Monday. In consideration of Senators who might not be able to get here right this minute, perhaps we had better let it go until Monday.

The PRESIDING OFFICER. Without objection, the unanimous consent request——

Mr. GRIFFIN. Mr. President, reserving the right to object, to be sure the minority leader understands, as I understand it the unanimous-consent request, if agreed to, would preclude any motion to recommit prior to the vote on the amendment Monday at 3 o'clock.

The PRESIDING OFFICER. It will not.

Mr. HUGH SCOTT. Then, Mr. President, unless we can get an agreement that any Senator may offer a motion to recommit prior, immediately prior to the time of the vote on the amendment of the Senator from North Carolina——

The PRESIDING OFFICER. The Senator is correct.

Mr. HUGH SCOTT. I would be constrained, to use the Senator's great word, to object; and if the Senator could agree that the unanimous-consent agreement be so modified, I would be in accord with that.

Mr. ERVIN. Did the Senator address his remarks to me?

Mr. HUGH SCOTT. Well, rather hopefully I did.

Mr. ERVIN. I have no objection to that, if we have the time set to vote on the amendment with the understanding that if any Senator wants to make a motion to recommit before that vote, he has that power.

Mr. HUGH SCOTT. I would agree to that.

The PRESIDING OFFICER. With that modification, is there objection? The Chiar hears none, and it is so ordered.

The Clerk will report the amendment.

The amendment was stated as follows:

The Senator from North Carolina (Mr. ERVIN) on behalf of himself and others proposes an amendment, No. 1846.

Mr. GURNEY. Will the Senator from North Carolina yield?

Mr. ERVIN. Yes, I yield to the Senator from Florida who is a cosponsor of the amendment.

Mr. GURNEY. Yes; and I do want to say as strongly as I can that I am totally in favor of the amendment and I think when the Senate reads the RECORD made today and we have the vote on it on Monday, the amendment will prevail.

However, there is one point that does bother me, and that point came out in the earlier colloquy which several of us had here on the floor prior to the beginning of the floor statements on the bill, and that, of course, refers to the situation which is going to occur on Monday.

We have had a unanimous-consent agreement that we will vote upon the amendment of the Senator from North Carolina on Monday afternoon, and if that amendment prevails, then we will go on, of course, and consider other

amendments to the bill and, hopefully, pass this very fine copyright bill.

If the amendment fails, of course, then the unanimous-consent agreement provided that there would be an immediate vote upon recommittal.

We agreed to that unanimous consent, but after it we had some further conversation. That conversation indicated very clearly to me that one of the Senators who feels very strongly about the fact that recording artists should receive royalties wants to recommit the bill, so that hearings could be held upon it, upon this subject, and he indicated that he might well offer a motion to recommit, which it was agreed he could at any time.

That vote, of course, would precede the vote upon the Senator from North Carolina's amendment, and if the bill goes back to the committee it is my feeling that probably we will have no copyright bill this year at all, and heaven knows when we will.

So what we really need to do, if that procedure is adhered to, if the Senator from Pennsylvania or some other Senator offers a motion to recommit which is voted upon prior to the vote upon the Senator from North Carolina's amendment, then I think we should make it very clear to the Senate, and this is the purpose of this colloquy, that that motion to recommit should be voted down so that then we can vote first, seriously, upon the amendment of the Senator from North Carolina.

Mr. ERVIN. I agree with the distinguished Senator from Florida on that point.

I made a motion with instructions, originally, simply because so many Senators were absent and I thought they could still have an opportunity to vote on the amendment. I am sorry my distinguished friend from Pennsylvania is not here.

I think the reservation I agreed to in the unanimous-consent agreement at his request was what we call in North Carolina a heads I win, tails you lose proposition.

I think the distinguished Senator from Pennsylvania wants to count the votes of the Members of the Senate. If he finds out the majority are wise enough to support my amendment, he would make a motion to commit instead of pressing the burial of his pet amendment.

Therefore, I agree with the Senator from Florida that if a motion to recommit is made before the amendment is voted on, that that motion to recommit should be defeated.

Mr. HRUSKA. Will the Senator yield?

Mr. ERVIN. I am happy to yield to the Senator from Nebraska who is one of the cosponsors of this amendment.

Mr. HRUSKA. Not only am I a cosponsor of the amendment, but I am in full support of it and I want to associate myself with the remarks which the Senator from North Carolina has just completed in support of his amendment.

I do believe it would be regrettable if there were a premature motion to recommit before the vote is taken on the amendment of the Senator from North Carolina. The reason for this is that it would mean that this bill would be lost for this session altogether. It would mean perhaps that the chairman of the subcommittee would not want to go forward with it even next year until the other body has acted upon the bill.

Mr. President, too much time, talent and effort has been expended upon the rest of this bill, which has great merit, with some amendments that will be proposed and disposed of. Too much time has been invested in it to suggest the loss in this body of this bill.

So I would join with the Senator's suggestion that if a motion to recommit is made prematurely, this body should turn it down, vote at 3 o'clock or as soon thereafter as possible upon the amendment made by the Senator from North Carolina, and then proceed in the light of the result of that vote.

Mr. ERVIN. I would like to state, Mr. President, that I agree with everything that the distinguished Senator from Florida and the distinguished Senator from Nebraska have said on this point.

Mr. GURNEY. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. GURNEY. I want to thank the Senator from North Carolina for yielding. Both Senators are supporting this strategy of the Senate that we will engage in on Monday next. I would hope that the Senators and their staff who are interested in handling this particular piece of legislation would be so advised if we do, indeed, vote down that motion to recommit, if it is made prior to the vote upon the amendment of the Senator from North Carolina.

I would like to add simply to what the Senator from Nebraska said. A great deal of work has gone into this copyright bill. It has been pending, as I understand it, for 7 years before the Judiciary Committee. The basic law has really not been revised for 65 years, except in small portions here and there.

This is a good bill and we do need it, with a few amendments, particularly the one now being offered and discussed by the Senator from North Carolina. I would certainly hope—and I am delighted that my distinguished colleagues from North Carolina and Nebraska have agreed with me—that the Senate should vote down any motion to recommit prior to the vote on the amendment of the Senator from North Carolina.

I thank the Senator.

Mr. McCLELLAN. Mr. President, is there now any motion or unanimous-consent request pending?

The PRESIDING OFFICER. There is none pending.

Mr. McCLELLAN. Mr. President, the Senate at long last is today proceeding to the consideration of legislation for the general revision of the copyright law. The adoption of copyright legislation is one of the powers of the Congress specifically enumerated in article I of the Constitution. Our first copyright law was enacted in the very first session of the Congress in 1790. Since then it has been revised generally on only three occasions, the last being in 1909.

Copyright revision legislation has been under consideration by the Subcommittee on Copyrights for a number of years. The subcommittee held 19 days of hearings receiving testimony from approximately 200 witnesses. Unfortunately the progress of this legislation was necessarily delayed because of events beyond the control of the subcommittee.

Although this legislation provides for a complete revision of title 17 of the United States Code, only a few sections of S. 1361 are highly controversial. While it is understandable that our debate should focus on those sections, it should not obscure the many beneficial provisions of this legislation, which are not in dispute.

The Constitution makes clear that the purpose for protecting the writings of an author is to promote the public interest. But, as stated in the committee report on the act of 1909—

> The granting of such exclusive rights, under the proper terms and conditions, confers a benefit upon the public that outweighs the evils of the temporary monopoly.

Some of the most important provisions of this legislation are found in chapter 3 relating to the duration of copyright. The existing statute provides for an initial term of 28 years with the option of a renewal for a second term of the same duration. This legislation establishes a general copyright term enduring for the life of the author and 50 years after his death. The adoption of this term will bring U.S. law into conformity with the generally recognized international standard. However, the treatment of authors and other creators under this legislation is less favorable than in the copyright legislation of most major nations of the Western World.

With respect to the use of copyrighted materials for nonprofit purposes, the bill in my judgment provides a carefully structured balance between the legitimate rights of the creators, and the reasonable needs of users. Particular attention has been given in this legislation to the needs of classroom teachers and public libraries. A detailed discussion of these subjects is contained in those portions of the Judiciary Committee report devoted to an explanation of sections 107 and 108 of S. 1361. While the report of the committee accurately reflects a sharp difference of opinion on other sections of the bill, the committee achieved satisfactory and workable compromises on these issues. The committee is satisfied that the provisions of this legislation will not interfere with the reasonable needs of education and libraries. I can assure the Senate that the committee carefully considered the scope of all the educational and library exemptions. I hope that the Senate will not disturb the delicate balance achieved on these issues by the committee.

No section of this legislation has been more burdensome to the Committee than section 111 relating to secondary transmissions by cable television systems. I have long been of the view that a fair and workable resolution of the CATV controversy required a coordinated resolution of regulatory and copyright issues. The copyright legislation initially came before the Subcommittee at a time when the Federal Communications Commission was effectively freezing the orderly de-

velopment of the cable industry and denying millions of our citizens of the varied services which can be provided by cable. Consequently the subcommittee found it necessary in its initial reporting of section 111 to include some provisions of a regulatory nature.

On December 19, 1969, I wrote to the chairman of the Committee on Commerce stating that I was prepared to recommend a delay of several months in floor action on the copyright bill if the Commerce Committee desired to consider and report CATV regulatory legislation. The Commerce Committee consulted the Federal Communications Commission and subsequently the chairman of the Subcommittee on Communications introduced legislation drafted by the Commission. On March 25, 1970, in introducing that legislation the senior Senator from Rhode Island (Mr. PASTORE) stated—

It is my hope that the Committee will hold hearings on this proposal in the very near future.

No legislation on this subject was reported and apparently none was actively considered by the Commerce Committee although a number of such bills were introduced and referred to that committee.

During this period the Federal Communications Committee under the able leadership of its then Chairman, Dean Burch, commenced a CATV rulemaking proceeding. After some efforts to delay the adoption of the Commission rules, the rules became effective on March 15, 1972. The Commission acted in the expectation that the Congress would then proceed with the resolution of the cable copyright issues. Meanwhile, the Supreme Court in two cases held that cable systems were not liable for copyright infringement under the act of 1909.

The approach taken in section 111 is to resolve the copyright issues on the basis of the regulatory scheme adopted by the Commission. This legislation does not determine what signals may be carried by cable television systems. It grants to cable systems a copyright compulsory license to carry such signals as are authorized by the regulations of the Commission. As a condition of the compulsory license, under the bill as reported by the Judiciary Committee, all cable systems would be required to pay a reasonable copyright royalty, the initial schedule of which is established by this legislation. While the committee was divided on the amount of the copyright royalties to be paid, there was general agreement that the Congress should initially establish the rates, subject to the provisions of chapter 8 of S. 1361 providing for impartial periodic review of the rates by the Copyright Royalty Tribunal.

The section of the bill that produced the sharpest division within the Judiciary Committee is section 114 which would establish a performance royalty in sound recordings. Under this section, the commercial users of recordings would be required to pay a copyright royalty to recording artists and the record companies which produce such copyrighted material. Very effective arguments have been presented on both sides of this question. The only comment I wish to make on this section of the bill relates to the contentions of certain of the opponents that the provision is a "rip-off" that was slipped into the bill. To the contrary, this is a very responsible proposal which deserves our careful attention. As described in more detail in the Committee report, most major Western nations have adopted similar provisions in their copyright or related legislation.

The general revision of the copyright law occurs infrequently. The country for many years will have to live with whatever bill is ultimately enacted. Therefore, the committee has taken particular care that the language of the bill is sufficiently flexible to allow for further evolution in technology and communications. In considering proposed amendments we must be careful not to adopt provisions, whose intent is unclear, and which may cause difficulties for many years.

I am reminded of this because of a personal experience with the ill-advised jukebox exemption that was adopted by the Congress in the act of 1909. When I came to the House of Representatives in 1935 one of the first bills that I recall being considered at a hearing was legislation to repeal the jukebox exemption. Almost 40 years later I find myself as the manager of legislation which would finally repeal that exemption.

As one who has struggled with this bill for many years, I can assure my colleagues that it is impossible to satisfy everyone. Whatever we do will disappoint some interest. It would, perhaps, have been more popular for me to have adopted different positions on some issues in this legislation, or to abandon good faith commitments when circumstances changed.

The Judiciary Committee has tried to resolve each issue by applying the standard of what best promotes the constitutional mandate to encourage and reward authorship. Some may disagree with the conclusions we have reached. All that I ask of them is that they also resolve these issues on the basis of what is right for the country, and just for the various interests.

Mr. President, it is doubtful if the House of Representatives will have time to act on this legislation in the remaining weeks of this session. However, Senate passage of S. 1361 will serve a useful purpose in that it will facilitate final action on copyright revision legislation in the next Congress. I anticipate that the bill passed by the Senate will be reintroduced at the start of the 94th Congress, and it should be then processed expeditiously. Our goal should be the enactment of a new copyright statute by the end of 1975.

Mr. HUGH SCOTT. Mr. President, I am delighted that the Senate is now considering the copyright revision bill, S. 1361. It is only through the fine and diligent efforts of Senator JOHN MCCLELLAN that the bill is to be voted upon. As chairman of the Subcommittee on Patents, Trademarks, and Copyrights, Senator MCCLELLAN has done a masterful job in producing a substantive reform of our copyright statutes. Although this bill has placed heavy responsibilities on Senator MCCLELLAN's time, he has always placed copyright reform at the top of his legislative priorities. I would like to extend my personal congratulations for his fine efforts on this bill.

In the next several days a number of amendments to S. 1361 will be discussed. Generally, I think the bill as approved by the Senate Judiciary Committee constitutes a good compromise approach to the many conflicting legitimate interests touched by this revision of our copyright law.

I would like to note my approval of a suggestion of the Commerce Committee that was advanced by Senator PHILIP HART. Senator HART's amendment would direct the Federal Communications Commission to establish rules governing the carriage of sports events on cable television. The amendment favors neither the cable television nor the sports interests. The Committee has advanced certain basic criteria for studying this complex issue that are designed to balance the competing but legitimate rights of sports and cable television. Under the amendment, the Federal Communications Commission is provided with adequate time to give the issue full detailed analysis. It is crucial to point out that the FCC on July 17, 1974, approved identical language. Although the majority of the Judiciary Committee in its review of S. 1361 did not vote to include a similar amendment in the bill, I am very hopeful the approach of the Commerce Committee to sports and cable television will obtain wide acceptance.

There is another important issue I feel very strongly about. Section 114 of S. 1361 establishes a performance royalty for performing artists, musicians, and record companies in recorded music that is performed for profit. This is an idea I have endorsed for more than 30 years. My full comments on section 114 have been printed in my additional views to the Judiciary Committee Report—93–983—of S. 1361. I was personally delighted when the Judiciary Committee voted to retain section 114. The Commerce Committee, on the other hand, after its very brief study of the bill recommended rejection of the performance royalty. I think this was unfortunate since after a great deal of consideration Senator MCCLELLAN's Copyright Subcommittee and the Senate Judiciary Committee approved it. I do hope the Senate will endorse the performance royalty. However, because of the strong views of some of the members of the Commerce Committee that they have not had adequate opportunity to hear from broadcasters, performers, and record companies on the equities of the issue, I have no objection to removing section 114 from the bill to permit such futher considerations. Thus, though I will support removal of section 114 from the bill at this time, this should not be considered any determination of the issue on its merits. This will simply allow all Senators more time to study the merits of the performance royalty. I would encourage Senator PASTORE to provide an opportunity for hearings of this issue in his subcommittees. I will personally be happy to testify at any time on the strong factors supporting

the establishment of a performance royalty.

Copyright reform has languished for far too long. Too many problems in this technical area will continue to arise until substantive copyright reform becomes a reality.

Mr. ERVIN. I would like to make some remarks in support of my amendment.

Mr. HUGH SCOTT. We have made some wise lucubrations.

Mr. ERVIN. Yes, I think the Senator has been wise not to argue the point. But I would hope that I can show him the error of his ways.

Mr. GURNEY. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. GURNEY. Mr. President, there is a genuine need for reform of the Copyright Act in light of technological and scientific advances since its enactment in 1909. Congressional action to update the copyright law is long overdue.

S. 1361, a bill for the general revision of the copyright law, title 17 of the United States Code, which we are now considering, is an important and historic piece of legislation. In general, I consider S. 1361 to be a well-drafted document. It is fair to say that it is an accurate restatement of judicial decisions in the copyright field, and it provides genuine reform. The bill reflects the significant developments in technology and communications which have rendered the existing law inadequate to our country's present-day needs. For instance, S. 1361 takes into account changes in such areas as commercial and educational broadcasting, cable television, photocopying, videotaping, microfilming, and computer programing.

S. 1361 is a product of over 10 years' work by the Subcommittee on Patents, Trademarks and Copyrights. The distinguished senior Senator from Arkansas, Mr. MCCLELLAN, who introduced this bill in the 93d Congress, should be congratulated for his able leadership and for the outstanding work of his subcommittee's staff in this important legislative field.

Because S. 1361 is a lengthy and comprehensive bill dealing with a complex legal subject, it is not surprising that it contains some sections which have generated considerable controversy and have produced amendments and proposals for amendment in both the Judiciary and Commerce Committees.

At this time I would like to discuss briefly a few of these controversial provisions, especially sections 111 and 114 relating to cable television and the recording arts performance royalty.

Section 111 provides for the first time that community antenna television systems must obtain compulsory licenses to retransmit TV programs and must make copyright payments by virtue of the fact that they provide reception to viewers of television broadcast signals. At present, cable operators do not pay for the programs they carry. Despite numerous court decisions finding no copyright liability under existing law, and although owners and producers of copyrighted works are already compensated by TV stations and networks, the CATV industry has agreed to pay royalties for its service.

In the original draft of the bill, section 111 would have imposed a virtual blackout on CATV systems of many televised sports programs. Under the language of former subsection (c)(2)(C), a CATV system within the local service area of any TV station—and most systems are—would have been prevented from carrying sports events at any time, without first obtaining special permission from the sports teams involved—even though reception of distant stations' signals were permitted under FCC rules and the games could be broadcast by local TV stations.

Accordingly, I introduced an amendment to delete this "sports blackout" provision from S. 1361. The response I received from my constituents was overwhelming. Letters and phone calls poured into my office from viewers who depend on CATV for viewing sports, from mayors and city councilmen of cities and towns with local cable systems, and from small cable operators in Florida and CATV systems all over the country—and they were unanimously opposed to the sports blackout provision.

The Judiciary Committee in executive session adopted my amendment to eliminate the sports blackout provision on a 12 to 2 vote. However, when the copyright revision bill was referred to the Committee on Commerce, my good friend and able colleague, the distinguished senior Senator from Michigan, Senator HART, who was one of the two Judiciary Committee members voting to retain the sports blackout language, was successful in inserting into the bill as new subsection (c)(1)(C) a so-called compromise provision.

Under the Hart amendment it is an act of copyright infringement for any CATV system to retransmit sports events where carriage is not permitted under FCC rules. The amendment directs the FCC to adopt such rules whereby it "may consider the effect upon broadcasting, cable television, and sports of the policy objectives contained in Public Law 87–331" and other appropriate factors. Public Law 87–331 provides for exemption from antitrust laws for professional sports agreements. Thus the policy objectives to be considered by the Commission must include preferential treatment for professional sports.

As it stands, the judiciary version of S. 1361 makes no reference to sports blackout on CATV or to mandatory or discretionary referral to the FCC or to special consideration for sports. The Judiciary Committee's report, at page 132, does state that protection for sports is an issue more properly left to the rulemaking process of the FCC. Certainly this seems to me an appropriate way to handle the sports blackout issue, and in fact, the FCC is currently considering this very problem.

The Federal Communications Commission has already asserted its jurisdiction over cable television matters. Furthermore, the FCC has been considering a docket concerning CATV's carriage of sports for 2 years, and it claims it can act without specifice policy guidelines from the Senate. Final Commission rulemaking on this matter is expected at any time. Therefore, it would be premature and unwise for the Senate to insert this amendment on this issue to this bill at this time. Once the FCC's rulemaking has taken effect, the Congress can respond as it sees fit, if it need to. Moreover, there were no hearings and little debate in the Commerce Committee on the Hart proposal. Under the circumstances I think the Senate would be ill advised to take precipitous action regarding the CATV sports blackout before the FCC has reached its decision, particularly when the amendment which is now before us may have such negative and far-reaching consequences for so many parties.

Now, I am not suggesting that the Senate should cop out on this controversial issue. I am not saying that we avoid taking a position on CATV sports blackouts merely because the FCC claims greater expertise in this area. In fact, I hope that the Senate will thoroughly discuss this important matter and will decisively vote against the Hart-Commerce amendment.

I do not wish to imply that the FCC should not take up the matter of sports on cable television. After all, professional sports has a legitimate concern in its own future. And the Federal Communications Commission as the agency which is concerned directly with broadcasting and CATV should study and if necessary promulgate rules which touch upon the effects of TV and CATV upon sports.

But it is possible that the Commission's rulemaking in this area could effectively eliminate sports programing on CATV systems. That, in my opinion, would be a disaster for millions of sports loving, CATV viewing consumers and for hundreds of small local cable operators. Therefore, Congress should not merely shunt off this issue to a Federal agency and leave unresolved a problem which is of major significance to millions of Americans who rely upon CATV exclusively to view televised sports events. Congress has the responsibility to provide policy guidance and direction to the FCC in this matter. In so doing, it should advise the commissioners and those in the cable bureau and others at the FCC who may be concerned with the CATV and sports issues that any rulemaking which they might adopt which provides for a sports blackout on the cable systems of our country is contrary to public policy. That is why it is important that we take a positive stand on this sports blackout issue and why we should reject the Hart-Commerce amendment.

In my opinion, any provision in the copyright law which could lead to a virtual blackout of sports on CATV would be grossly unfair to Americans who are dependent on cable television for their favorite sports entertainment. In many areas of Florida—which has 106 operating CATV systems—viewers would be unable to watch the professional baseball, football, hockey, or basketball games carried on TV which they can now enjoy as cable subscribers.

Personally, I am not convinced that importation by CATV systems of distant broadcast signals carrying professional sports events will necessarily cause harm to local sports enterprises. I have seen no evidence, and none has been offered, to substantiate this charge. CATV can now carry all the programs offered on TV stations, consistent with FCC carriage and nonduplication rules, and there is nothing to indicate that retransmission by cable has any damaging effect at all upon attendance at home games or the profits of sports clubs. In fact, thanks largely to TV and CATV, all sports, particularly professional sports, have been enjoying tremendous popularity in this country. If game attendance is lagging or public interest in particular teams or events seems to be wanning, it is not, I suggest, the fault of CATV.

In addition, I do not favor granting special treatment in the copyright law, to professional sports which is not also available to amateur athletics, movie theaters or other businesses which arguably might be affected in a negative fashion by the importation of programming by CATV systems.

In general, I do not like legislation granting special favors to particular businesses or industries to the detriment of others and at the expense of the American people. The Hart-Commerce language, which is now before us, like the sports blackout provision which was previously rejected by the Judicary Committee, assumes that professional sports enterprises deserve some special considerations not afforded to others. It should be pointed out that professional sports already enjoys preferential treatment in the law. For instance, Congress has granted limited TV blackouts in hometown areas where games are not sold out in advance. And professional sports agreements receive an exemption from antitrust laws under Public Law 87–331, the specific act cited in the Hart amendment. I think it would be unwise to insert such discriminatory language into a new copyright bill which, like its predecessor act, will be law for many decades.

Any exception carved out in that law for professional sports would be contrary to the purpose and concept of the compulsory licensing established in S. 1361. Under section 111, CATV systems are to purchase licenses at reasonable rates so that they can retransmit to subscribers programs broadcast by TV stations, probably at high prices, for sports programs, normally carried—and already paid for—by TV networks and stations.

It is obvious that a sports blackout provision could be financially disastrous to cable operators throughout the country. Struggling CATV's, faced with high capital outlays and mounting overhead expenses, would be unable to meet the demands for additional payments of giant sports enterprises. They could then be arbitrarily denied access to popular sports entertainment. It is doubtful that they could attract new subscribers or even keep the present ones. With the consequent loss in subscriber revenues and the disappearance of investment capital, the CATV industry could suffer irreparable damage. I do not believe that the Congress wants to enact legislation which could produce such undesirable results to both the viewing public and the CATV industry.

I believe that the American people will benefit from the growth and development of CATV in our country. We need more diversity and greater choice in programing; increased competition and more experimentation in the communications field. I believe that the copyright revision bill adopted by the Judiciary Committee should provide a healthy climate for cable television, as well as for sports and the entertainment business. Therefore, I urge you all to vote for section 111 as passed by the Judiciary Committee and to table the Hart-Commerce amendment and the language in subsection (c)(2)(C) that refers the CATV sports blackout issue to the FCC.

The problem related to section 114 and the recording arts performance royalty is somewhat different.

As passed by the Judiciary Committee, S. 1361 establishes a copyright in sound recordings and provides that for the first time all radio and television stations, CATV systems, jukebox operators, background music operators and others who play records for profit must make royalty payments to performers and recording companies. Failure to deposit with the copyright royalty tribunal, the fees set out in section 114 would render the public performance of recordings an act of copyright infringement.

In the Judiciary Committee I introduced an amendment to exempt all broadcasting stations from copyright liability and to delete the royalty payments required under section 114. Senator ERVIN proposed an amendment—similar to the amendment which we are about to consider—which would eliminate completely the copyright in sound recordings. Both amendments failed on 8 to 8 tie votes.

A "compromise" was reached by the Judiciary Committee on the amount of copyright fees that broadcasters would have to pay. Stations with annual gross receipts from advertisers totaling less than $25,000 are exempt. If a station grosses $25,000 to $100,000, it pays $250 per year; $100,001 to $200,000, it pays $750 per year; over $200,000, it pays 1 percent of net receipts or a prorated rate.

When S. 1361 reached the Commerce Committee, a number of changes affecting broadcasters and the jukebox industry were made in the copyright bill, many of which will be discussed later at greater length. For the moment I shall touch briefly on those provisions which deal with radio and television stations.

In effect, the Commerce Committee adopted the Gurney amendment by exempting broadcasters, in section 110(8), and deleting the royalty payments for broadcasting stations in section 114. While I am pleased that the Commerce Committee endorsed my position with regard to radio and TV stations, I regret that it also retained the copyright liability for jukebox operators and others who play records for profit. In my opinion, there is no sound reason for creating a new property right in sound recordings in the copyright law or for treating broadcasters any differently than the jukebox operators, CATV systems or other businessmen.

Fortunately, the Senate has the opportunity to rectify this inequitable situation by voting for the Ervin amendment to the copyright revision bill.

The language of the amendment introduced by the senior Senator from North Carolina clears up any confusion which may exist as a result of the Commerce Committee admendments to the judiciary bill. The amendment does not establish any new rights or requirements for anyone nor does it take anything away from anyone. It merely states what has been the law and the widely accepted fact for many years—namely, that there is no compensable property right in sound recordings and no recording arts performance royalty for broadcasters because they play records for profit. In my opinion, this situation is equitable, it works well, and it should remain unchanged. That is why I am pleased to be a cosponsor of the Ervin amendment.

Broadcasting stations have for years benefited performers and recording companies alike, as well as the listening public, by providing exposure for new recordings. I do not believe that licensees should now be compelled to pay for this service and in so doing, incur an added, often prohibitive cost to their broadcast operations. Broadcasters should not have to pay fees to record companies and recording artists who benefit most under the current arrangement.

Royalty payments are also inconsistent with the long-standing commercial relationship of the parties and have not been recognized by the courts. The anti-privacy statute, Public Law 92–140, which Congress enacted a few years ago to prevent illegal copying and sale of recordings, established a limited copyright in sound recordings. This provision survives in the bill, is sufficient protection for performers and recording companies, and deserves support. However, I oppose creating a new compensable property right in the law at the expense of broadcasters.

Many broadcasters—especially small town radio stations and marginal operators in metropolitan areas—simply cannot afford the additional royalty payments. Many stations, faced with high operating costs and heavy competition, will be hit disastrously if S. 1361 is not amended.

The royalty costs cannot always be passed along automatically to advertisers, and if they are passed on, the consumers will be hit, too. Stations may be forced to cut back on non-revenue-producing news and public affairs programing to meet the added cost of the fees. That would hurt all of us listeners.

I should point out that radio stations already pay negotiated fees amounting to roughly 3.7 percent of their gross revenues to music licensing organizations, like ASCAP, BMI and SESAC, representing composers and publishers. Thus broadcasters do pay for the records they play and they do not get "a free ride." The records used by disc jockeys are usually donated to the stations so that they receive exposure by on-air play.

Copyright payments to composers and publishers will continue under section 115 of the bill. But I see no good argument to extend broadcasters' liability to record manufacturers and performers. Whether or not they are really "authors and inventors" in the constitutional sense, their contributions do not merit copyright protection.

Record industry revenues have increased substantially over the past decade whereas radio profit margins have been stable or declining during that period. Studies show that the giant record industry and the performing artists are profiting handsomely from the sale and use of recordings under the present setup. Thus, there is no need for these additional revenues at the expense of broadcasters. If performers are insufficiently compensated, it seems to me that their gripe should be with the record companies who hire them, not with the stations that happen to use their products.

For these reasons I hope the Senate will approve the Ervin amendment to S. 1361.

In general—except for the Ervin amendment, which I have discussed briefly, and the Baker amendment, which deals with a special problem between Vanderbilt University and CBS and will be discussed later—the Judiciary Committee's draft of the copyright revision bill is preferable to the version adopted by the Commerce Committee. Therefore, I urge you to vote in favor of the Judiciary bill and against the Commerce amendments, especially the Hart "sports blackout" amendment I discussed. I sincerely hope that Congress will enact S. 1361 during this session and that America will soon enjoy the benefits from a modern copyright law.

Mr. ERVIN. Mr. President, I wish to make a few remarks.

The PRESIDING OFFICER. The Senator is recognized.

Mr. ERVIN. Mr. President, this amendment is offered on behalf of myself and 21 other Members of the Senate, the Senator from Rhode Island (Mr. PASTORE), the Senator from Florida (Mr. GURNEY), the Senator from Texas (Mr. BENTSEN), the Senator from Oregon (Mr. HATFIELD), the Senator from Mississippi (Mr. EASTLAND), the Senator from Nebraska (Mr. HRUSKA), the Senator from Iowa (Mr. CLARK), the Senator from South Carolina (Mr. THURMOND), the Senator from South Dakota (Mr. MCGOVERN), the senior Senator from Nebraska (Mr. CURTIS), the junior Senator from Oregon (Mr. PACKWOOD), the Senator from Kansas (Mr. DOLE), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from South Dakota (Mr. ABOUREZK), my colleague from North Carolina (Mr. HELMS), the Senator from New Mexico (Mr. DOMENICI), the Senator from North Dakota (Mr. YOUNG), the Senator from Georgia (Mr. NUNN), the Senator from Alaska (Mr. STEVENS), the Senator from Arizona (Mr. FANNIN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Alabama (Mr. ALLEN).

I ask unanimous consent that the RECORD show that these 22 Senators joined me in cosponsoring this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I rise to urge that the Senate adopt an amendment, this amendment, to S. 1361.

First, Mr. President, I ask unanimous consent that the statement of the amendment by the clerk be omitted, and that I be permitted to state the purpose and the effect of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 88, strike out lines 13 and 14, and insert in lieu thereof "audible,".

On page 92, line 34, strike out "and sound recording,".

On page 96, lines 8 and 9, strike out "or of a sound recording,".

On page 96, lines 28 and 29, strike out "or of a sound recording,".

On page 96, lines 31 and 32, strike out "or of a sound recording,".

On page 97, lines 21 and 22, strike out "or of a sound recording".

On page 97, lines 25 and 26, strike out "or of a sound recording".

On page 105, beginning with line 1, strike out all that follows through page 109, line 17, and insert in lieu thereof the following:

"§ 114. Scope of exclusive rights in sound recordings

"(a) The exclusive rights of the owner of copyright in a sound recording are limited to the rights specified by clauses (1) and (3) of section 106, and do not include any right of performance under section 106(4).

"(b) The exclusive right of the owner of copyright in a sound recording to reproduce it under section 106(1) is limited to the right to duplicate the sound recording in the form of phonorecords that directly or indirectly recapture the actual sounds fixed in the recording. This right does not extend to the making or duplication of another sound recording that is an independent fixation of other sounds, even though such sounds imitate or simulate those in the copyrighted sound recording.

"(c) This section does not limit or impair the exclusive right to perform publicly, by means of a phonorecord, any of the works specified by section 106(4).".

On page 111, lines 21 and 22, strike out "and in the case of a sound recording,".

On page 113, beginning with line 34, strike out all through line 36, on page 114, and insert in lieu thereof the following:

"(3) The fees to be distributed shall be divided as follows:

"(A) To every copyright owner not affiliated with a performing rights society the pro rata share of the fees to be distributed to which such copyright owner proves his entitlement; and

"(B) To the performing rights societies the remainder of the fees to be distributed in such pro rata shares as they shall by agreement stipulate among themselves, or, if they fail to agree, the pro rata share to which such performing rights societies prove their entitlement.

"(C) During the pendency of any proceeding under this section, the Register of Copyrights or the Copyright Royalty Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.".

On page 147, line 29, strike out ", 114, and".

On page 148, line 6, strike out "114,".

On page 148, line 25, strike out "and 114.".

On page 150, line 25, strike out ", 114 and,".

Mr. ERVIN. When this bill passed the House it had no provision in it which attempted to give royalties to recorders of records or to performing artists.

When the bill reached the Senate Judiciary Committee it was rewritten and introduced separately. As a result of that, it was rewritten so as to incorporate for the first time in the history of this Nation, these new royalties which I contend are contrary to the Constitution, and also unjustified by the economic state of the Nation.

As a result of this rewriting, it was necessary for those who opposed these new proposed royalties to offer an amendment to the rewritten Senate bill, and we lost on a tie vote of 8 to 8 in the Judiciary Committee. So that is the necessity of this amendment.

This amendment is very simple in its purpose and in its effect. It would strike from the bill all of the provisions which attempt to create royalties for the benefit of those who make sound recordings, and royalties for the benefit of those who are performing artists.

The Constitution is very plain on this subject. It says in article I, section 8:

The Congress shall have Power To promote the Progress of Science and useful Arts by securing for limited Times to Authors and Inventors the exclusive Rights to their respective Writings and Discoveries;

Now, there is no contention that a preforming artist is a discovered. There is no contention that a sound recording is a discovery. So they come under the provision of this bill which gives Congress the power to enact legislation which would give royalties for limited times to authors to preserve to them their exclusive right to their respective writings.

Now, manifestly a recording artist, in his capacity as a recording artist, is not an author; and a sound recorder, in his capacity as a sound recorder, is not an author.

The recording artist merely sings a song which somebody else has composed. The composer is the author of the song, and there is nothing original, as far as the writing is concerned, in the work of a performing artist.

The law is well established in a multitude of cases that to be copyrightable "a work must be original in that the author has created it by his own skill, labor, and judgment." Now, the word "work" is used in that connection in the sense of a being a writing or something in the nature of a writing.

Every American, except an inventor, and every American except an author, is required to depend upon contracts with other individuals for his compensation. This amendment would delete from this bill provisions which are designed to allow Congress to impose what is, in effect, a tax upon radio broadcasters or television broadcasters or jukebox operators or restaurants which play music when they serve the meals, a tax for the benefit of sound recorders like the Columbia Record Co. I have never known or heard of that record company or of any other record company being on the verge of failure.

As I will point out, the profits of the record companies have been going up while the profits of these people they want Congress to tax for their benefit have been stabilized or, in some cases, have gone down.

Despite the opinion of my good friend, the Senator from Pennsylvania, I do not know any recording artist who is on the verge of bankruptcy, and I do not know any reason why a recording artist should not be just like lawyers, doctors, and schoolteachers, and all other Americans, except authors and inventors, who must depend upon their contracts for their compensation which they receive.

I urge the Senate to adopt this amendment which, as I have stated, would eliminate from this bill the establishment of a recording arts performance royalty.

In my judgment such a royalty would be both constitutionally unsound and economically unwise. It would impose a severe financial burden on broadcasters and jukebox operators who would be obligated to pay this royalty for the benefit of record manufacturers and performers. Particularly at a time when the only economic certainty facing our Nation is continuing inflation the Congress should not increase the costs of operations for the thousands of businesses in the broadcasting and jukebox industries.

Mr. President, as I have stated, the amendment for which I speak is cosponsored by 20 other Members of the Senate. It failed to be adopted by the Judiciary Committee as I have stated because the committee was evenly divided, 8 to 8. The Commerce Committee, to which S. 1361 was subsequently referred, proceeded to eliminate the royalty from the bill. Indeed, the Commerce Committee, in effect, is in basic support of the position embodied in my amendment. My amendment differs from the Commerce Committee's action only in eliminating from section 106 of S. 1361 the recognition of a copyright in the performance of a sound recording. This is necessary, in my opinion, because there is no constitutional basis for or economic reason to justify the establishment of copyright liability for the performance of a sound recording. I appreciate the spirit of cooperation on the part of members of the Commerce Committee who have agreed to permit the Senate to proceed with my amendment before the Commerce Committee's amendments. By proceeding in this manner, I believe the Senate will have the best opportunity to resolve the question of whether or not it should establish the recording arts performance royalty. My amendment would accomplish exactly what the Commerce Committee proposes—the elimination of royalty payments by broadcasters and jukebox operators—and, in addition, would eliminate from S. 1361 establishment of a copyright in the performance of a sound recording.

Mr. President, this controversy is not new. Almost from the beginning of efforts to revise the copyright law, special interests mounted a campaign to impose a royalty fee on broadcasters and jukebox operators for the performance of sound recordings. This campaign has thus far failed because of two good reasons. In the first place, the establishing of such copyright liability is of doubtful constitutional authority. In the second place, requiring broadcasters and jukebox operators to fatten the bulging treasuries of record manufacturers and to add to the glittering personal fortunes of recording stars is economically unwise.

Recognizing a recording arts performance royalty under the copyright law raises serious constitutional questions. Article I, section 8, clause 8 of the U.S. Constitution provides that Congress shall have power "to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." I do not accept the view that record manufacturers and performers are "authors" or "inventors" in the constitutional sense. Even though their contributions in producing a sound recording are significant, such contributions do not constitute original intellectual creations which would justify protection under the copyright law. To create performance royalties for the benefit of record manufacturers and performers under copyright law would stretch the Constitution's meaning beyond reason and justification.

In addition to the serious constitutional questions about the recording arts performance royalty, I am concerned about the economic impact such a royalty would have on broadcasters and jukebox operators. With respect to broadcasters—except for those with annual revenues of less than $200,000—the royalty would be based on a percentage of gross advertising revenues. Mr. President, the amount of gross advertising revenues of a broadcaster tells us nothing about the net profit of a broadcaster. Under S. 1361 as reported by the Judiciary Committee, a broadcaster who is actually losing money would be required to pay a royalty. In the case of a large broadcast operation, the amount of such a royalty could be enormous. Payment of such a royalty would mean financial disaster if not death for a broadcaster in such a situation.

The only legitimate need for the creation of a copyright in recordings themselves has already been satisfied by the Congress in its antipiracy statute, Public Law 92–140, which since 1971 has protected record industries from illegal copying of their recordings. The protection, with criminal penalties for violations, remains in the current bill and should be supported.

Now, the recording companies and performing artists, both of whom profit from the promotion of records by radio and jukebox play, are trying to gain additional revenues from radio stations and jukebox operators by way of a new statutory fee.

Mr. President, I would like to make a reference at this point to a case of Shaab against Kleindienst, which was reported in 345 Federal Supplement 589.

In this case, the plaintiff, who had no right whatever to records or copyrighted recordings, was desirous of pirating other people's records who had been authorized by the Office of Musical Compositions to record their musical compositions. This is one of these unfortunate opinions in that it was written by Judge Per Curiam.

There are two kinds of judges who should be barred from writing opinions. One is Judge Expediency and the other is Judge Per Curiam.

My experience is that Judge Per Curiam writes an opinion when the judge who writes it is anxious to adjourn and go golfing, and does not want to be charged with the possibility that he is responsible for the paternity of a bastard opinion. This opinion has some very loose language in it. But when you analyze the opinion it merely holds that the plaintiff could not enjoin the Attorney General from prosecuting him for violation of a public law of 1971, which said that where there were authorized recordings of copyrighted musical compositions, a man could not commit piracy of those musical compositions. For that reason he could not get an injunction against the Attorney General for prosecuting him for violation of the 1971 act in the event he did pirate those.

While Judge Per Curiam wrote the opinion, and some of his language is very loose and susceptible of distortion, the real decision is in perfect harmony with the 1971 act. That act was passed to keep someone from stealing—or pirating may be a more polite word—a sound recording of someone who had been authorized by the owner of the copyright to record his musical compositions.

Mr. President, as the distinguished Senator from Pennsylvania stated, there has been an effort to try to get for performing artists and record manufacturers since at least 1944 what is equivalent to an interest in the gross receipts of every broadcasting company and jukebox operator in the country without them having an investment in the broadcast companies or the jukebox operators and thereby run the risk of sustaining any loss.

There have been no hearings on this provision that the amendment strikes for some years. When they had hearings before, the broadcasters and the jukebox operators came before the committee and made such a strong presentation of the economic injustice, which was being sought by those who wanted a new royalty created for their benefit, that they could not get the bill out of committee until it was resurrected recently and called from the grave by an 8 to 8 vote. The bill had been sleeping.

I trust that the Senate will adopt this amendment and help to bury once and for all this proposal which violates the Constitution and also good economics.

It is simply not true that performers and record companies need this additional revenue. To the contrary, the pressures for promotion of recordings has led to a continuing concern on the part of the broadcasting industry and the Government with the "payola" problem.

In terms of total revenues, the recording industry is larger than the radio industry. In 1972, sales of prerecorded music—records and tapes—were estimated by RIAA to be $1,924,000,000; this compares with radio revenues of $1,407,000,000. Both industries are growing, but the recording industry is growing faster—its revenues have increased 42 percent in the last 5 years—1968–72—and 164 percent in the last 10 years. Radio revenues have increased 38 percent in the last 5 years, and 107 percent in the last 10.

Radio profit margins have been stable—or even declining—over the last 10

years. Profits in 1972 were 9.55 percent of revenue; in 1968 they were 11.09 percent. Further, in the 5-year period 1963–67, the average profit margin was 9.51 percent, while in the following 5-year period—1968–72—the average profit margin was 9.25 percent.

Mr. President, there is no economic or financial justification for Congress to impose what I believe would be a tax on broadcasters and jukebox operators. I believe in the principle of free enterprise and the right of parties to make whatever lawful, contractual arrangements among themselves they may desire for the promotion and protection of their respective economic interests. I do not favor the imposition of a tax by the Government for the direct benefit of certain economic interests at the direct expense of other interests. The Congress has more important business to consider than a proposal to shower special favors on certain, special industries.

Mr. President, two committees of the Senate have studied this matter. The Judiciary Committee, of which I am a member, is evenly divided on the question of establishing a recording arts performance royalty. When I offered this same amendment in the Judiciary Committee's executive session on S. 1361, the amendment failed 8 to 8. The Commerce Committee has decided to eliminate the performance royalty. In effect, no committee which has studied this question actually recommended the establishing of this performance royalty. For this reason, I believe it would be particularly appropriate and wise for the Senate to adopt my amendment and, thereby, eliminate from S. 1361 the recording arts performance royalty.

In closing, I would like to say there are two reasons why this amendment should be adopted and this performance royalty should be eliminated.

The first is that it is of doubtful constitutionality. Congress has the power to preserve and protect the interests of authors in their writings. A performing artist is not an author. A sound recorder is not an author.

In the second place, the economic condition of those who seek the aid of Congress to give them something they cannot get by contract is much better than those on whom they wish Congress to impose this imposition for their special benefit.

I sincerely trust that the Senate, on Monday, when it votes on this amendment, will adopt the amendment.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. ERVIN. I yield to the distinguished Senator from Nebraska.

Mr. HRUSKA. Mr. President, the Senator has made a very splendid contribution to an understanding of the law and the merits pertaining to the amendment he has proposed. I listened with great interest to his citation of the authorities and to his reasoning.

I should like to ask the Senator from North Carolina to consider this analogy, which was proposed to me by a friend of mine who is interested in the proposed legislation and is a student of the law. He suggested that perhaps there is an analogy with the situation in question and that of the development and use of a washing machine. An inventor develops and perfects a new aspect of the machine, consisting, perhaps, of a more efficient wringer than had been previously used. After that patent is given to the inventor, each time one of those machines is made with that improved wringer, the inventor receives a royalty for the manufacture of that machine.

The housewife buys that machine and puts it in her utility room and uses it. If the performance royalty would be imposed upon that housewife each time she used that machine, to be paid to the manufacturer—not the man who invented the improvement but the man who made the machine—would there not be an analogy between that type of payment to the manufacturer and the performance royalty that is sought to be exacted by the bill before the Senate today?

Mr. ERVIN. That is precisely what the provision of the bill we seek to strike does. It provides that every time a man uses the record, he has to pay another royalty.

Mr. HRUSKA. But not to the man who composed the music.

Mr. ERVIN. No. The man who composed the music is protected, because he copyrights it, and he is entitled to copyright it, under the law and under the Constitution. But this proposes that every time the man uses it—it is already under a contract which makes no provision for any such performance royalty—he has to pay another royalty.

Mr. HRUSKA. And that it be by force of statute.

Mr. ERVIN. Yes.

Mr. HRUSKA. Is it conceivable that that payment could be construed as a levy or an assessment or a tax?

Mr. ERVIN. In essence, it is nothing in the world but a tax which would be imposed by Congress for the benefit of people engaged in private enterprise. It is contrary to the principle that people in private enterprise must depend upon the contracts they make for their compensation.

Mr. HRUSKA. Is it not a cardinal principle in Congress that any measure imposing a tax must originate in the other body of Congress?

Mr. ERVIN. Absolutely.

Mr. HRUSKA. And when it comes to a matter of consideration in this body a measure pertaining to raising money by taxes is considered by the Committee on Finance.

Mr. ERVIN. It is quite clear that whenever Congress imposes a law which takes away money from an individual, that is a tax. So this not only offends the provisions of the Constitution relating to the protection and the rights of authors in their writings, but also offends the provision which requires that tax laws originate in the House of Representatives.

Mr. HRUSKA. I thank the Senator very much.

Mr. ERVIN. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NUNN). Without objection, it is so ordered.

APPOINTMENT TO ATTEND INTERPARLIAMENTARY UNION MEETING, TOKYO, JAPAN, OCTOBER 3–11, 1974

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore of the Senate, in accordance with Public Law 84–474, appoints the Senator from Vermont (Mr. STAFFORD) to attend the Interparliamentary Union meeting, to be held in Tokyo, Japan, October 3–11, 1974.

PROGRAM

Mr. GRIFFIN. Mr. President, I take this time to inquire of the distinguished majority leader if he can tell us what the program may be for the rest of the day and so far into the future as he may be able to shed any light.

Mr. MANSFIELD. Mr. President, in response to the question raised by the distinguished acting Republican leader, the Senator from Michigan (Mr. GRIFFIN), there will be no further action on any legislation today.

COMMODITY FUTURES TRADING COMMISSION ACT OF 1974

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at this time, Calendar 1080, H.R. 13113, be laid before the Senate and made the pending business, and that the copyright bill and the consumers protection bill both be laid aside temporarily.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The bill will be stated by title.

The second assistant legislative clerk read as follows:

Calendar No. 1080, H.R. 13113, an act to amend the Commodity Exchange Act to strengthen the regulation of futures trading, to bring all agricultural and other commodities traded on exchanges under regulation, and for other purposes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that that bill be the pending business when we come in on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill which had been reported from the Committee on Agriculture and Forestry with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Commodity Futures Trading Commission Act of 1974".

TITLE I—COMMODITY FUTURES TRADING COMMISSION

SEC. 101. (a) Section 2(a) of the Commodity Exchange, as amended (7 U.S.C. 2, 4), is amended—

(1) By inserting "(1)" after the subsection designation.

(2) By striking the last sentence of section 2(a) and inserting in lieu thereof the following new sentence: "The words 'the Commission' shall mean the Commodity Futures Trading Commission established under paragraph (2) of this subsection."

(3) By adding at the end thereof the following new paragraph:

"(2) There is hereby established, as an independent agency of the United States Government, a Commodity Futures Trading Commission. The Commission shall be composed of a Chairman and four other Commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. In nominating persons for appointment, the President shall seek to establish and maintain a balanced Commission, including, but not limited to, persons of demonstrated knowledge in futures trading or its regulation and persons of demonstrated knowledge in the production, merchandising, processing or distribution of one or more of the commodities or other goods and articles, services, rights and interests covered by this Act. Not more than three of the members of the Commission shall be members of the same political party. Each Commissioner shall hold office for a term of five years and until his successor is appointed and has qualified, except that he shall not so continue to serve beyond the expiration of the next session of Congress subsequent to the expiration of said fixed term of office, and except (A) any Commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (B) the terms of office of the Commissioners first taking office after the enactment of this paragraph shall expire as designated by the President at the time of nomination, one at the end of one year, one at the end of two years, one at the end of three years, one at the end of four years, and one at the end of five years.

"(3) The Commissioner shall have a General Counsel, to be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall report directly to the Commission and serve as its legal advisor. The Commission shall appoint such other attorneys as may be necessary, in the opinion of the Commission, to assist the General Counsel, represent the Commission in all proceedings pending before it, and perform such other legal duties and functions as the Commission may direct.

"(4) The Commission shall have an Executive Director, to be appointed by the President, by and with the advice and consent of the Senate. The Executive Director shall report directly to the Commission and perform such functions and duties as the Commission may prescribe.

"(5)(A) Except as otherwise provided in this paragraph and in paragraphs (3) and (4) of this subsection, the executive and administrative functions of the Commission, including functions of the Commission with respect to the appointment and supervision of personnel employed under the Commission, the distribution of business among such personnel and among administrative units of the Commission, and the use and expenditure of funds, shall be exercised solely by the Chairman.

"(B) In carrying out any of his functions under the provisions of this paragraph, the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

"(C) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

"(D) Personnel employed regularly and full time in the immediate offices of Commissioners other than the Chairman shall not be affected by the provisions of this paragraph.

"(E) There are hereby reserved to the Commission its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

"(F) The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any functions of the Chairman under this paragraph.

"(6) No Commissioner or employee of the Commission shall accept employment or compensation from any person, exchange, or clearinghouse subject to regulation by the Commission under this Act during his term of office, nor shall he participate, directly or indirectly, in any contract market operations or transactions of a character subject to regulation by the Commission.

"(7) The Commission shall have an official seal, which shall be judicially noticed."

(b) Section 12 of the Commodity Exchange Act, as amended (7 U.S.C. 16), is amended by striking such section and inserting in lieu thereof the following:

"SEC. 12. (a) The Commission may cooperate with any department or agency of the Government, any State, territory, district, or possession, or department, agency, or political subdivision thereof, or any person.

"(b) The Commission shall have the authority to employ such investigators, special experts, Administrative Law Judges, clerks, and other employees as it may from time to time find necessary for the proper performance of its duties and as may be from time to time appropriated for by Congress. The Commission may employ experts and consultants in accordance with section 3109 of title 5 of the United States Code, and compensate such persons at rates not in excess of the maximum daily rate prescribed for GS–18 under section 5332 of title 5 of the United States Code. The Commission shall also have authority to make and enter into contracts with respect to all matters which in the judgment of the Commission are necessary and appropriate to effectuate the purposes and provisions of this Act, including, but not limited to, the rental of necessary space at the seat of Government and elsewhere.

"(c) All of the expenses of the Commissioners, including all necessary expenses for transportation incurred by them while on official business of the Commission, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Commission.

"(d) There are hereby authorized to be appropriated to carry out the provisions of this Act such sums as may be required for the fiscal year ending June 30, 1975, for the fiscal year ending June 30, 1976, for the fiscal year ending June 30, 1977, and for the fiscal year ending June 30, 1978."

SEC. 102. (a) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(60) Chairman, Commodity Futures Trading Commission."

(b) Section 5315 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(98) Members, Commodity Futures Trading Commission."

(c) Section 5316 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraphs:

"(134) General Counsel, Commodity Futures Trading Commission.

"(135) Executive Director, Commodity Futures Trading Commission."

SEC. 103. The Commodity Exchange Act, as amended, is amended—

(a) By striking the word "Secretary" and the words "Secretary of Agriculture" wherever such words appear therein (except where the words "Secretary of Agriculture" first appear in section 5(a) (7 U.S.C. 7) or where said words would be stricken by subsection (b), (c), or (d) of this section) and by inserting in lieu thereof the word "Commission".

(b) By striking the words "the Secretary of Agriculture or" wherever they appear in the phrase "the Secretary of Agriculture or the Commission".

(c) By striking the words "the Secretary of Agriculture, who shall thereupon notify the other member of" from section 6(a) thereof (7 U.S.C. 8).

(d) By striking "the Secretary of Agriculture (or any person designated by him)," from section 6(b) thereof (7 U.S.C. 15).

(e) By striking the word "he", "his", or "He" wherever such word is used therein to refer to the Secretary of Agriculture, and by inserting in lieu thereof the word "it", "its", or "It", respectively.

(f) By striking the words "United States Department of Agriculture" and "Department of Agriculture" wherever they appear therein and by inserting in lieu thereof the word "Commission".

(g) By inserting in section 5(a) (7 U.S.C. 7) after the words "Secretary of Agriculture" where the same first appear therein the words "or the Commission".

SEC. 104. All of the personnel of the Commodity Exchange Authority, property, records, and unexpended balance of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with administration of the Commodity Exchange Act shall be transferred to the Commodity Futures Trading Commission upon the effective date of this Act.

SEC. 105. Section 8 of the Commodity Exchange Act, as amended (7 U.S.C. 12, 12–1), is amended by adding at the end thereof the following new paragraphs:

"The Commission shall submit to the Congress a written report within one hundred and twenty days after the end of each fiscal year detailing the operations of the Commission during such fiscal year. The Commission shall include in such report such information, data, and recommendations for further legislation as it may deem advisable with respect to the administration of this Act and its powers and functions under this Act.

"The Comptroller General of the United States shall conduct reviews and audits of the Commission and make reports thereon. For the purpose of conducting such reviews and audits the Comptroller General shall be furnished such information regarding the powers, duties, organizations, transactions, operations, and activities of the Commission as he may require and he and his duly authorized representatives shall, for the purpose of securing such information, have access to and the right to examine any books, documents, papers, or records of the Commission except that in his reports the Comptroller General shall not include data and information which would separately disclose the business transactions of any person and trade secrets or names of customers, although such data shall be provided upon request by any committee of either House of Congress acting within the scope of its jurisdiction."

SEC. 106. The Commodity Exchange Act, as amended, is amended by adding at the end thereof the following new section:

"SEC. 14. (a) Any person complaining of any violation of any provision of this Act or any rule, regulation, or order thereunder by any person registered under section 4d, 4e, 4k, or 4m of this Act may, at any time within three years after the cause of action accrues, apply to the Commission by petition, which shall briefly state the facts, whereupon, if, in the opinion of the Commission, the facts therein contained warrant such action, a copy of the complaint thus made shall be forwarded by the Commission to the respondent, who shall be called upon to satisfy the complaint, or to answer it in writing, within a reasonable time to be prescribed by the Commission.

"(b) If there appear to be, in the opinion of the Commission, any reasonable grounds for investigating any complaint made under this section, the Commission shall investigate such complaint and may, if in its opinion the facts warrant such action, have said complaint served by registered mail or by certified mail or otherwise on the respondent and afford such person an opportunity for a hearing thereon before an Administrative Law Judge designated by the Commission in any place in which the said person is engaged in business: *Provided*, That in complaints wherein the amount claimed as damages does not exceed the sum of $2,500, a hearing need not be held and proof in support of the complaint and in support of the respondent's answer may be supplied in the form of depositions or verified statements of fact.

"(c) After opportunity for hearing on complaints where the damages claimed exceed the sum of $2,500 has been provided or waived and on complaints where damages claimed do not exceed the sum of $2,500 not requiring hearing as provided herein, the Commission shall determine whether or not the respondent has violated any provision of this Act or any rule, regulation, or order thereunder.

"(d) In case a complaint is made by a nonresident of the United States, the complainant shall be required, before any formal action is taken on his complaint, to furnish a bond in double the amount of the claim conditioned upon the payment of costs, including a reasonable attorney's fee for the respondent if the respondent shall prevail, and any reparation award that may be issued by the Commission against the complainant on any counterclaim by respondent: Provided, That the Commission shall have authority to waive the furnishing of a bond by a complainant who is a resident of a country which permits the filing of a complaint by a resident of the United States without the furnishing of a bond.

"(e) If after a hearing on a complaint made by any person under subsection (a) of this section, or without hearing as provided in subsections (b) and (c) of this section, or upon failure of the party complained against to answer a complaint duly served within the time prescribed, or to appear at a hearing after being duly notified, the Commission determines that the respondent has violated any provision of this Act, or any rule, regulation, or order thereunder, the Commission shall, unless the offender has already made reparation to the person complaining, determine the amount of damage, if any, to which such person is entitled as a result of such violation and shall make an order directing the offender to pay to such person complaining such amount on or before the date fixed in the order. If, after the respondent has filed his answer to the complaint, it appears therein that the respondent has admitted liability for a portion of the amount claimed in the complaint as damages, the Commission under such rules and regulations as it shall prescribe, unless the respondent has already made reparation to the person complaining, may issue an order directing the respondent to pay to the complainant the undisputed amount on or before the date fixed in the order, leaving the respondent's liability for the disputed amount for subsequent determination. The remaining disputed amount shall be determined in the same manner and under the same procedure as it would have been determined if no order had been issued by the Commission with respect to the undisputed sum.

"(f) If any person against whom an award has been made does not pay the reparation award within the time specified in the Commission's order, the complainant, or any person for whose benefit such order was made, may within three years of the date of the order file in the district court of the United States for the district in which he resides or in which is located the principal place of business of the respondent, or in any State court having general jurisdiction of the parties, a petition setting forth briefly the causes for which he claims damages and the order of the Commission in the premises. The orders, writs, and processes of the district courts may in these cases run, be served, and be returnable anywhere in the United States. Such suit in the district court shall proceed in all respects like other civil suits for damages, except that the findings and orders of the Commission shall be prima facie evidence of the facts therein stated and reviewable only for purposes of determining if such findings and orders are supported by substantial evidence. The petitioner shall not be liable for costs in the district court, nor for costs at any subsequent state of the proceedings, unless they accrue upon his appeal. If the petitioner finally prevails, he shall be allowed a reasonable attorney's fee, to be taxed and collected as a part of the costs of the suit.

"(g) Either party adversely affected by the entry of a reparation order by the Commission may, within thirty days from and after the date of such order, appeal therefrom to the district court of the United States for the district in which said hearing was held: *Provided*, That in cases handled without a hearing in accordance with subsections (b) and (c) of this section or in which a hearing has been waived by agreement of the parties, appeal shall be to the district court of the United States for the district in which the appellee is located. Such appeal shall be perfected by the filing with the clerk of said court a notice of appeal, together with a petition in duplicate which shall recite prior proceedings before the Commission and shall state the grounds upon which the appeal is based, with proof of service thereof upon the adverse party. Such appeal shall not be effective unless within thirty days from and after the date of the reparation order the appellant also files with the clerk a bond in double the amount of the reparation awarded against the appellant conditioned upon the payment of the judgment entered by the court, plus interest and costs, including a reasonable attorney's fee for the appellee, if the appellee shall prevail. Such bond shall be in the form of cash, negotiable securities having a market value at least equivalent to the amount of bond prescribed, or the undertaking of a surety company on the approved list of sureties issued by the Treasury Department of the United States. The clerk of the court shall immediately forward a copy thereof to the Commission which shall forthwith prepare, certify, and file in said court a true copy of the Commission's decision, findings of fact, conclusions, and order in said case, together with copies of the pleadings upon which the case was heard and submitted to the Commission. Such suit in the district court shall proceed in all respects like other civil suits for damages, except that the findings of fact and orders of the Commission shall be prima facie evidence of the facts therein stated and reviewable only for purposes of determining if such findings and orders are supported by substantial evidence. The appellee shall not be liable for costs in said court. If the appellee prevails, he shall be allowed a reasonable attorney's fee to be taxed and collected as a part of his costs. Such petition and pleadings certified by the Commission upon which decision was made by it shall upon filing in the district court constitute the pleadings upon which the trial shall proceed, subject to any amendment allowed in that court.

"(h) Unless the registrant against whom a reparation order has been issued shows to the satisfaction of the Commission within fifteen days from the expiration of the period allowed for compliance with such order that he has either taken an appeal as herein authorized or has made payment in full as required by such order, he shall be prohibited from trading on all contract markets and his registration shall be suspended automatically at the expiration of such fifteen-day period until he shows to the satisfaction of the Commission that he has paid the amount therein specified with interest thereon to date of payment: *Provided*, That if on appeal the appellee prevails or if the appeal is dismissed the automatic prohibition against trading and suspension of registration shall become effective at the expiration of thirty days from the date of judgment on the appeal, but if the judgment is stayed by a court of competent jurisdiction the suspension shall become effective ten days after the expiration of such stay, unless prior thereto the judgment of the court has been satisfied.

"(i) The provisions of this section shall not become effective until one year after the date of its enactment: *Provided*, That claims which arise within nine months immediately prior to the effective date of this section may be heard by the Commission after such one year period."

SEC. 107. The Commodity Exchange Act, as amended, is amended by adding at the end thereof the following new section:

"SEC. 15. The Commission shall take into consideration the public interest to be protected by the antitrust laws as well as the policies and purposes of this Act, and endeavor to take the least anticompetitive means of achieving the objectives of this Act, in issuing any order or adopting any Commission rule or regulation, or in requiring or approving any bylaw, rule, or regulation of a contract market."

TITLE II—REGULATION OF TRADING AND EXCHANGE ACTIVITIES

SEC. 201. Section 2(a) of the Commodity Exchange Act, as amended (7 U.S.C. 2, 4), is amended—

(a) By striking after the word "eggs," the word "onions,".

(b) By striking the period at the end of the third sentence of the section and substituting therefor the following: ", and all other goods and articles, except onions as provided in Public Law 85-839, and all services, rights, and interests in which contracts for future delivery are presently or in the future dealt in: *Provided*, That the Commission shall have exclusive jurisdiction with respect to accounts, agreements (including any transaction which is of the character of, or is commonly known to the trade as, an 'option', 'privilege', 'indemnity', 'bid', 'offer', 'put', 'call', 'advance guaranty', or 'decline guaranty'), and transactions involving contracts of sale of a commodity for future delivery, traded or executed on a contract market designated pursuant to section 5 of this Act and which, in acordance with section 4h of this Act, may not lawfully be executed or consummated otherwise than through a member of a contract market: *And provided further*, That, except as hereinabove provided, nothing contained in this section shall (1)

supersede or limit the jurisdiction at any time conferred on the Securities and Exchange Commission or other regulatory authorities under the laws of the United States or of any State, or (ii) restrict the Securities and Exchange Commission and such other authorities from carrying out their duties and responsibilities in accordance with such laws. Nothing in this section shall supersede or limit the jurisdiction conferred on courts of the United States or any State. Nothing in this Act shall be deemed to govern or in any way be applicable to transactions in foreign currency, security warrants, security rights, resales of installment loan contracts, repurchase options, government securities, or mortgages and mortgage purchase commitments, unless such transactions involve the sale thereof for future delivery conducted on a board of trade."

SEC. 202. Section 2(a) of the Commodity Exchange Act, as amended (7 U.S.C. 2, 4), is amended by adding at the end of paragraph (1) the following new sentences: "The term 'commodity trading advisor' shall mean any person who, for compensation or profit, engages in the business of advising others, either directly or through publications or writings, as to the value of commodities or as to the advisability of trading in any commodity for future delivery on or subject to the rules of any contract market, or who, for compensation or profit, and as part of a regular business, issues or promulgates analyses or reports concerning commodities; but does not include (i) any bank or trust company, (ii) any newspaper reporter, newspaper columnist, newspaper editor, lawyer, accountant, or teacher, (iii) any floor broker or futures commission merchant, (iv) the publisher or any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation including their employees, (v) any contract market, and (vi) such other persons not within the intent of this definition as the Commission may specify by rule, regulation, or order: Provided, That the furnishing of such services by the foregoing persons is solely incidental to the conduct of their business or profession. The term 'commodity pool operator' shall mean any person engaged in a business which is of the nature of an investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts, or receives from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in any commodity for future delivery on or subject to the rules of any contract market, but does not include such persons not within the intent of this definition as the Commission may specify by rule or regulation or by order.".

SEC. 203. The Commodity Exchange Act, as amended, is amended by inserting after section 4i (7 U.S.C. 6i), the following new section:

"SEC. 4j. (1) The Commission shall within six months after the effective date of the Commodity Futures Trading Commission Act of 1974, and subsequently when it determines that changes are required, make a determination, after notice and opportunity for hearing, whether or not a floor broker may trade for his own account or any account in which such broker has trading discretion, and also execute a customer's order for future delivery and, if the Commission determines that such trades and such executions shall be permitted, the Commission shall further determine the terms, conditions, and circumstances under which such trades and such executions shall be conducted: *Provided*, That any such determination shall, at a minimum, take into account the effect upon the liquidity of trading of each market: *And provided further*, That nothing herein shall be construed to prohibit the Commission from making separate determinations for different contract markets when such are warranted in the judgment of the Commission, or to prohibit contract markets from setting terms and conditions more restrictive than those set by the Commission.

(2) The Commission shall within six months after the effective date of the Commodity Futures Trading Commission Act of 1974, and subsequently when it determines that changes are required, make a determination, after notice and opportunity for hearing, whether or not a futures commission merchant may trade for its own account or any proprietary account, as defined by the Commission, and if the Commission determines that such trades shall be permitted, the Commission shall further determine the terms, conditions, and circumstances under which such trades shall be conducted: *Provided*, That any such determination, at a minimum, shall take into account the effect upon the liquidity of trading of each market; *And provided further*, That nothing herein shall be construed to prohibit the Commission from making separate determinations for different contract markets when such are warranted in the judgment of the Commission, or to prohibit contract markets from setting terms and conditions more restrictive than those set by the Commission."

SEC. 204. (a) The Commodity Exchange Act, as amended, is amended by adding the following new section:

"SEC. 4k. (1) It shall be unlawful for any person to be associated with any futures commission merchant or with any agent of a futures commission merchant as a partner, officer, or employee (or any person occupying a similar status or performing similar functions), in any capacity which involves (i) the solicitation or acceptance of customers' orders (other than in a clerical capacity) or (ii) the supervision of any person or persons so engaged, unless such person shall have registered, under this Act, with the Commission and such registration shall not have expired nor been suspended (and the period of suspension has not expired) nor revoked, and it shall be unlawful for any futures commission merchant or any agent of a futures commission merchant to permit such a person to become or remain associated with him in any such capacity if such futures commission merchant or agent knew or should have known that such person was not so registered or that such registration had expired, been suspended (and the period of suspension has not expired) or revoked: *Provided*, That any individual who is registered as a floor broker or futures commission merchant (and such registration is not suspended or revoked) need not also register under these provisions.

"(2) Any such person desiring to be registered shall make application to the Commission in the form and manner prescribed by the Commission, giving such information and facts as the Commission may deem necessary concerning the applicant. Such person, when registered hereunder, shall likewise continue to report and furnish to the Commission such information as the Commission may require. Such registration shall expire two years after the effective date thereof, and shall be renewed upon application therefor unless the registration has been suspended (and the period of such suspension has not expired) or revoked after notice and hearing as prescribed in section 6(b) of this Act: *Provided*, That upon initial registration, the effective period of such registration shall be set by the Commission, not to exceed two years from the effective date thereof and not to be less than one year from the effective date thereof".

(b) Section 6(b) of the Commodity Exchange Act as amended (7 U.S.C. 9), is amended by inserting after the words "futures commission merchant" each time those words appear, the following: "or any person associated therewith as described in section 4k of this Act,".

(c) Section 8a(1) of the Commodity Exchange Act, as amended (7 U.S.C. 12a(1)), is amended by inserting after the words "futures commission merchants" the following: "and persons associated therewith as described in section 4k of this Act."

SEC. 205. (a) The Commodity Exchange Act, as amended, is amended by adding the following new sections:

"SEC. 41. It is hereby found that the activities of commodity trading advisors and commodity pool operators are affected with a national public interest in that, among other things—

"(1) their advice, counsel, publications, writings, analyses, and reports are furnished and distributed, and their contracts, solicitations, subscriptions, agreements, and other arrangements with clients take place and are negotiated and performed by the use of the mails and other means and instrumentalities of interstate commerce;

"(2) their advice, counsel, publications, writings, analyses, and reports customarily relate to and their operations are directed toward and cause the purchase and sale of commodities for future delivery on or subject to the rules of contract markets; and

"(3) the foregoing transactions occur in such volume as to affect substantially transactions on contract markets.

SEC. 4m. It shall be unlawful for any commodity trading advisor or commodity pool operator, unless registered under this Act, to make use of the mails or any means or instrumentality of interstate commerce in connection with his business as such commodity trading advisor or commodity pool operator: *Provided*, That the provisions of this section shall not apply to any commodity trading advisor who, during the course of the preceding twelve months, has not furnished commodity trading advice to more than fifteen persons and who does not hold himself out generally to the public as a commodity trading advisor.

"SEC. 4n. (1) Any commodity trading advisor or commodity pool operator, or any person who contemplates becoming a commodity trading advisor or commodity pool operator, may register under this Act by filing an application with the Commission. Such application shall contain such information, in such form and detail, as the Commission may, by rules and regulations, prescribe as necessary or appropriate in the public interest, including the following:

"(A) the name and form of organization, including capital structure, under which the applicant engages or intends to engage in business; the name of the State under the laws of which he is organized; the location of his principal business office and branch offices, if any; the names and addresses of all partners, officers, directors, and persons performing similar functions or, if the applicant be an individual, of such individual; and the number of employees;

"(B) the education, the business affiliations for the past ten years, and the present business affiliations of the applicant and of his partners, officers, directors, and persons performing similar functions and of any controlling person thereof;

"(C) the nature of the business of the applicant, including the manner of giving advice and rendering of analyses or reports;

"(D) the nature and scope of the authority of the applicant with respect to clients' funds and accounts;

"(E) the basis upon which the applicant is or will be compensated; and

"(F) such other information as the Commission may require to determine whether the applicant is qualified for registration.

"(2) Except as hereinafter provided, such registration shall become effective thirty

days after the receipt of such application by the Commission, or within such shorter period of time as the Commission may determine.

"(3) All registrations under this section shall expire on the 30th day of June of each year, and shall be renewed upon application therefor subject to the same requirements as in the case of an original application.

"(4)(A) Every commodity trading advisor and commodity pool operator registered under this Act shall maintain books and records and file such reports in such form and manner as may be prescribed by the Commission. All such books and records shall be kept for a period of at least three years, or longer if the Commission so directs, and shall be open to inspection by any representative of the Commission or the Department of Justice. Upon the request of the Commission, a registered commodity trading advisor or commodity pool operator shall furnish the name and address of each client, subscriber, or participant, and submit samples or copies of all reports, letters, circulars, memorandums, publications, writings, or other literature or advice distributed to clients, subscribers, or participants, or prospective clients, subscribers, or participants.

"(B) Unless otherwise authorized by the Commission by rule or regulation, all commodity trading advisors and commodity pool operators shall make a full and complete disclosure to their subscribers, clients, or participants of all futures market positions taken or held by the individual principals of their organization.

"(5) Every commodity pool operator shall regularly furnish statements of account to each participant in his operations. Such statements shall be in such form and manner as may be prescribed by the Commission and shall include complete information as to the current status of all trading accounts in which such participant has an interest.

"(6) The Commission is authorized, without hearing, to deny registration to any person as a commodity trading advisor or commodity pool operator if such person is subject to an outstanding order under this Act denying to such person trading privileges on any contract market, or suspending or revoking the registration of such person as a commodity trading advisor, commodity pool operator, futures commission merchant, or floor broker, or suspending or expelling such person from membership on any contract market.

"(7) The Commission after hearing may by order deny registration, revoke or suspend the registration of any commodity trading advisor or commodity pool operator if the Commission finds that such denial, revocation, or suspension is in the public interest and that—

"(A) the operations of such person disrupt or tend to disrupt orderly marketing conditions, or cause or tend to cause sudden or unreasonable fluctuations or unwarranted changes in the prices of commodities;

"(B) such commodity trading advisor or commodity pool operator, or any partner, officer, director, person performing similar function, or controlling person thereof—

"(i) has within ten years of the issuance of such order been convicted of any felony or misdemeanor involving the purchase or sale of any commodity or security, or arising out of any conduct or practice of such commodity trading advisor or commodity pool operator or affiliated person as a commodity trading advisor or commodity pool operator; or

"(ii) at the time of the issuance of such order, is permanently or temporarily enjoined by order, judgment or decree of any court of competent jurisdiction from acting as a commodity trading advisor, commodity pool operator, futures commission merchant, or floor broker, or as an affiliated person or employee of any of the foregoing, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of commodities or securities; or

"(C) any partner, officer, or director of such commodity trading advisor or commodity pool operator, or any person performing a similar function or any controlling person thereof is subject to an outstanding order of the Commission denying trading privileges on any contract market to such person, or suspending or revoking the registration of such person as a commodity trading advisor, commodity pool operator, futures commission merchant, or floor broker, or suspending or expelling such person from membership on any contract market.

"SEC. 40. (1) It shall be unlawful for any commodity trading advisor or commodity pool operator registered under this Act, by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly—

"(A) to employ any device, scheme, or artifice to defraud any client or participant or prospective client or participant; or

"(B) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or participant or prospective client or participant.

"(2) It shall be unlawful for any commodity trading advisor or commodity pool operator registered under this Act to represent or imply in any manner whatsoever that he has been sponsored, recommended, or approved, or that his abilities or qualifications have in any respect been passed upon, by the United States or any agency or officer thereof: *Provided*, That this section shall not be construed to prohibit a statement that a person is registered under this Act as a commodity trading advisor or commodity pool operator, if such statement is true in fact and if the effect of such registration is not misrepresented."

(b) Section 6(b) of the Commodity Exchange Act, as amended (7 U.S.C. 9), is amended by inserting immediately before the words "or as floor broker" each time those words appear, the following: "commodity trading advisor, commodity pool operator,".

"(c) Section 8a(1) of the Commodity Exchange Act, as amended (7 U.S.C. 12a(1)), is amended by inserting immediately before the words "and floor brokers" the following: "commodity trading advisors, commodity pool operators,".

SEC. 206. The Commodity Exchange Act, as amended, is amended by adding the following new section:

"SEC. 4p. The Commission may specify by rules and regulations appropriate standards with respect to training, experience, and such other qualifications as the Commission finds necessary or desirable to insure the fitness of futures commission merchants, floor brokers, and those persons associated with futures commission merchants or floor brokers. In connection therewith, the Commission may prescribe by rules and regulations the adoption of written proficiency examinations to be given to applicants for registration as futures commission merchants, floor brokers, and those persons associated with futures commission merchants or floor brokers, and the establishment of reasonable fees to be charged to such applicants to cover the administration of such examinations. The Commission may further prescribe by rules and regulations that, in lieu of examinations administered by the Commission, contract markets may adopt written proficiency examinations to be given to applicants for registration as futures commission merchants, floor brokers, and those persons associated with futures commission merchants or floor brokers, and charge reasonable fees to such applicants to cover the administration of such examinations. Notwithstanding any other provision of this section, the Commission may specify by rules and regulations such terms and conditions as it deems appropriate to protect the public interest wherein exception to any written proficiency examination shall be made with respect to individuals who have demonstrated, through training and experience, the degree of proficiency and skill necessary to protect the interests of the customers of futures commission merchants and floor brokers."

SEC. 207. Section 5 of the Commodity Exchange Act as amended (7 U.S.C. 7), is amended by adding after subsection (f) thereof the following new subsection:

"(g) When such board of trade demonstrates that transactions for future delivery in the commodity for which designation as a contract market is sought will not be contrary to the public interest."

SEC. 208. Section 5a of the Commodity Exchange Act, as amended (7 U.S.C. 7a), is amended—

(a) By inserting after the world "purposes" in subsection (7) the following: "*And provided further*, That this subsection shall apply only to futures contracts for those commodities which may be delivered from a warehouse subject to the United States Warehouse Act".

(b) By striking out "and" at the end of subsection (8).

(c) By striking out the period at the end of subsection (9) and inserting in lieu thereof a semicolon.

(d) By adding at the end of subsection (9) thereof the following new subsection:

"(10) permit the delivery of any commodity, on contracts of sale thereof for future delivery, of such grade or grades, at such point or points and at such quality and locational price differentials as will tend to prevent or diminish price manipulation, market congestion, or the abnormal movement of such commodity in interstate commerce. If the Commission after investigation finds that the rules and regulations adopted by a contract market permitting delivery of any commodity on contracts of sale thereof for future delivery, do not accomplish the objectives of this subsection, then the Commission shall notify the contract market of its finding and afford the contract market an opportunity to make appropriate changes in such rules and regulations. If the contract market within seventy-five days of such notification fails to make the changes which in the opinion of the Commission are necessary to accomplish the objectives of this subsection, then the Commission after granting the contract market an opportunity to be heard, may change or supplement such rules and regulations of the contract market to achieve the above objectives: *Provided*, That any order issued under this paragraph shall not apply to contracts of sale for future delivery in any months in which contracts are currently outstanding and open: *And provided further*, That no requirement for an additional delivery point or points shall be promulgated following hearings until the contract market affected has had notice and opportunity to file exceptions to the proposed order determining the location and number of such delivery point or points;".

SEC. 209. Section 5a of the Commodity Exchange Act, as amended (7 U.S.C. 7a), is amended by adding a new subsection (11) as follows:

"(11) provide a fair and equitable procedure through arbitration or otherwise for the settlement of customers' claims and grievances against any member or employee thereof: *Provided*, That (i) the use of such procedure by a customer shall be voluntary, (ii) the procedure shall not be applicable to any claim in excess of $15,000, (iii) the procedure shall not result in any compulsory payment except as agreed upon between the parties, and (iv) the term 'customer' as

used in this subsection shall not include a futures commission merchant or a floor broker; and".

SEC. 210. Section 5a of the Commodity Exchange Act, as amended (7 U.S.C. 7a), is amended by inserting the following new subsection (12) as follows:

"(12) except as otherwise provided in this subsection, submit to the Commission for its approval all bylaws, rules, regulations, and resolutions made or issued by such contract market, or by the governing board thereof or any committee thereof which relate to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market or relate to other trading requirements except those relating to the setting of levels of margin. The Commission shall approve, within thirty days of their receipt unless the Commission notifies the contract market of its inability to make such determination within such period of time, such bylaws, rules, regulations, and resolutions upon a determination that such bylaws, rules, regulations, and resolutions are not in violation of the provisions of this Act or the regulations of the Commission and thereafter the Commission shall disapprove, after appropriate notice and opportunity for hearing, any bylaw, rule, regulation, or resolution which the Commission finds at any time is in violation of the provisions of this Act or the regulations of the Commission. In the event of an emergency requiring immediate action, the contract market by a two-thirds vote of its governing board may place into immediate effect without prior Commission approval a rule dealing with such emergency if it notifies the Commission of such action with a complete explanation of the emergency involved. The Commission may adopt a regulation exempting enumerated types of contract market operational and administrative rules from the requirement that they be submitted to the Commission for its approval."

SEC. 211. The Commodity Exchange Act, as amended, is amended by inserting the following new section immediately after section 6b (7 U.S.C. 13a):

"SEC. 6c. Whenever it shall appear to the Commission that any contract market or other person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of this Act or any rule, regulation, or order thereunder, or is restraining trading in any commodity for future delivery, the Commission may bring an action in the proper district court of the United States or the proper United States court of any territory or other place subject to the jurisdiction of the United States, to enjoin such act or practice, or to enforce compliance with this Act, or any rule, regulation or order thereunder, and said courts shall have jurisdiction to entertain such actions: Provided, That no restraining order or injunction for violation of the provisions of this Act shall be issued ex parte by said court. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond. Upon application of the Commission, the district courts of the United States and the United States courts of any territory or other place subject to the jurisdiction of the United States shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding any person to comply with the provisions of this Act or any rule, regulation, or order of the Commission thereunder, including the requirement that such person take such action as is necessary to remove the danger of violation of this Act or any such rule, regulation, or order: Provided, That no such writ of mandamus, or order affording like relief, shall be issued ex parte. Any action under this section may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or in the district where the act or practice occurred, is occurring, or is about to occur, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found."

SEC. 212. (a) Section 6 of the Commodity Exchange Act, as amended (7 U.S.C. 8, 9, 13b, 15), is amended—

(1) By substituting a comma for the period at the end of the fourth sentence in paragraph (b) and adding thereafter the following: "and may assess such person a civil penalty of not more than $100,000 for each such violation."

(2) By adding, in the sixth sentence in paragraph (b), a comma after the word "petition" and inserting thereafter and before the word "praying" the following phrase: "within fifteen days after the notice of such order is given to the offending person,".

(3) By adding after paragraph (c) thereof the following new paragraph:

"(d) In determining the amount of the money penalty assessed under paragraph (b) of this section, the Commission shall consider, in the case of a person whose primary business involves the use of the commodity futures market—the appropriateness of such penalty to the size of the business of the person charged, the extent of such person's ability to continue in business, and the gravity of the violation; and in the case of a person whose primary business does not involve the use of the commodity futures market—the appropriateness of such penalty to the net worth of the person charged, and the gravity of the violation. If the offending person upon whom such penalty is imposed, after the lapse of the period allowed for appeal or after the affirmance of such penalty, shall fail to pay such penalty the Commission shall refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court."

(b) Section 6b of the Commodity Exchange Act, as amended (7 U.S.C. 13a), is amended to read as follows:

"SEC. 6b. If any contract market is not enforcing or has not enforced its rules of government made a condition of its designation as set forth in section 5 of this Act, or if any contract market, or any director, officer, agent, or employee of any contract market otherwise is violating or has violated any of the provisions of this Act or any of the rules, regulations, or orders of the Commission thereunder, the Commission may, upon notice and hearing and subject to appeal as in other cases provided for in paragraph (a) of section 6 of this Act, make and enter an order directing that such contract market, director, officer, agent, or employee shall cease and desist from such violation, and assess a civil penalty of not more than $100,000 for each such violation. If such contract market, director, officer, agent, or employee, after the entry of such a cease and desist order and the lapse of the period allowed for appeal of such order or after the affirmance of such order, shall fail or refuse to obey or comply with such order, such contract market, director, officer, agent, or employee shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $100,000 or imprisoned for not less than six months nor more than one year, or both. Each day during which such failure or refusal to obey such cease and desist order continues shall be deemed a separate offense. If the offending contract market or other person upon whom such penalty is imposed, after the lapse of the period allowed for appeal or after the affirmance of such penalty, shall fail to pay such penalty, the Commission shall refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court. In determining the amount of the money penalty assessed under this section, the Commission shall consider the appropriateness of such penalty to the net worth of the offending person and the gravity of the offense, and in the case of a contract market shall further consider whether the amount of the penalty will materially impair the contract market's ability to carry on its operations and duties."

(c) Section 6(c) of the Commodity Exchange Act, as amended (7 U.S.C. 13b), is amended by deleting the words "not less than $500 nor more than $10,000" and substituting therefor the words "not more than $100,000".

(d) Section 9 of the Commodity Exchange Act, as amended (7 U.S.C. 13), is amended as follows:

(1) Subsection (a) is amended by striking "$10,000" and substituting therefor "$100,000".

(2) Subsection (b) is amended by striking "$10,000" and substituting therefor "$100,000".

(3) Subsection (c) is amended by striking "$10,000" and substituting therefor "$100,000".

SEC. 213. Section 8a of the Commodity Exchange Act, as amended (7 U.S.C. 12a), is amended by striking subsection (7) and inserting in lieu thereof the following new subsection:

"(7) to alter or supplement the rules of a contract market insofar as necessary or appropriate by rule or regulation or by order, if after making the appropriate request in writing to a contract market that such contract market effect on its own behalf specified changes in its rules and practices, and after appropriate notice and opportunity for hearing, the Commission determines that such contract market has not made the changes so required, and that such changes are necessary or appropriate for the protection of persons producing, handling, processing, or consuming any commodity traded for future delivery on such contract market, or the product or byproduct thereof, or for the protection of traders or to insure fair dealing in commodities traded for future delivery on such contract market. Such rules, regulations, or orders may specify changes with respect to such matters as:

"(A) terms or conditions in contracts of sale to be executed on or subject to the rules of such contract market;

"(B) the form or manner of execution of purchases and sales for future delivery;

"(C) other trading requirements, excepting the setting of levels of margin;

"(D) safeguards with respect to the financial responsibility of members;

"(E) the manner, method, and place of soliciting business, including the content of such solicitations; and

"(F) the form and manner of handling, recording, and accounting for customers' orders, transactions, and accounts; and".

SEC. 214. Section 8a of the Commodity Exchange Act, as amended (7 U.S.C. 12a), is amended by adding the following new subsection (8):

"(8) to make and promulgate such rules and regulations with respect to those persons registered under this Act, who are not members of a contract market, as in the judgment of the Commission are reasonably necessary to protect the public interest and promote just and equitable principles of trade, including but not limited to the manner, method, and place of soliciting business, including the content of such solicitation; and".

SEC. 215. Section 8a of the Commodity Exchange Act, as amended (7 U.S.C. 12a), is amended by adding the following new subsection (9):

"(9) to direct the contract market whenever it has reason to believe that an emergency exists, to take such action as, in the Commission's judgment, is necessary to

maintain or restore orderly trading in, or liquidation of, any futures contract. The term 'emergency' as used herein shall mean, in addition to threatened or actual market manipulations and corners, any act of government affecting a commodity or any other major market disturbance which prevents the market from accurately reflecting the forces of supply and demand for such commodity and which, in the Commission's judgment, will of itself have a greater adverse impact on the market than the intervention action proposed pursuant to this subsection: *Provided*, That nothing herein shall be deemed to limit the meaning or interpretation given by a contract market to the terms 'market emergency', 'emergency', or equivalent language in its own bylaws, rules, regulations, or resolutions."

SEC. 216. The Commodity Exchange Act, as amended, is amended by inserting the following new section immediately after section 8b (7 U.S.C. 12b):

"SEC. 8c. (1)(A) Any exchange or the Commission if the exchange fails to act, may suspend, expel, or otherwise discipline any person who is a member of that exchange, or deny any person access to the exchange. Any such action shall be taken solely in accordance with the rules of that exchange.

"(B) Any suspension, expulsion, disciplinary, or access denial procedure established by an exchange rule shall provide for written notice to the Commission and to the person who is suspended, expelled, or disciplined, or denied access, within thirty days, which includes the reasons for the exchange action in the form and manner the Commission prescribes. Otherwise the notice and reasons shall be kept confidential.

"(2)(A) Any person suspended, expelled, disciplined by an exchange or denied access to it is entitled to Commission review of that decision, pursuant to such regulations as the Commission, by rule, prescribes.

"(B) The Commission may, in its discretion, upon application of any person who is adversely affected by any other exchange action, review that action.

"(3) The Commission may affirm, modify, set aside, or remand any exchange decision it receives pursuant to subsection (2), after a determination on the record whether the action of the exchange was in accordance with the policies of this Act. Subject to judicial review, any order of the Commission entered pursuant to subsection (2) shall govern the exchange, in its further treatment of the matter.

"(4) The Commission, in its discretion, may order a stay of any action taken pursuant to subsection (1) pending review thereof.

"(5) Nothing in this section shall require any person to resort to the procedure set forth in subsection (2), or prohibit any person from seeking any other form of relief available to him under State or Federal law, or limit the liability of any person to suit by any State or Federal regulatory or prosecutorial agency."

SEC. 217. No person shall offer to enter into, enter into, or confirm the execution of any transaction for the delivery of silver bullion, gold bullion, or bulk silver coins or bulk gold coins, pursuant to a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract contrary to any rule, regulation, or order of the Commodity Futures Trading Commission designed to insure the financial solvency of the transaction or prevent manipulation of fraud: *Provided*, That such rule, regulation, or order may be made only after notice and opportunity for hearing. If the Commission determines that such transactions are contracts for future delivery within the meaning of the Commodity Exchange Act, as amended, such transactions shall be regulated in accordance with the provisions of such Act.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. Section 9 of the Commodity Exchange Act, as amended (7 U.S.C. 13), is amended by adding the following new subsections:

"(d) It shall be a felony punishable by a fine of not more than $10,000 or imprisonment for not more than five years, or both, together with the costs of prosecution, for any Commissioner of the Commission or any employee or agent thereof, to participate, directly or indirectly, in any transaction in commodity futures or any transaction of the character of or which is commonly known to the trade as an 'option', 'privilege', 'indemnity', 'bid', 'offer', 'put', 'call', 'advance guaranty', or 'decline guaranty', or for any such person to use information acquired by virtue of his employment or position and participate, directly or indirectly, in any transaction in an actual commodity: *Provided*, That such prohibition against any transaction in an actual commodity shall not apply to a transaction in which such person sells an agricultural commodity which he has produced in connection with his own farming or ranching operations nor to any transaction in which he sells livestock which he has owned at least three months. With respect to such excepted transactions, the Commission shall require any Commissioner of the Commission or employee or agent thereof who participates in any such transaction to notify the Commission thereof in accordance with such regulations as the Commission shall prescribe and the Commission shall make such information available to the public.

"(e) It shall be a felony punishable by a fine of not more than $10,000 or imprisonment for not more than five years, or both, together with the costs of prosecution—(1) for any Commissioner of the Commission or any employee or agent thereof who, by virtue of his employment or position, acquires information which may affect or tend to affect the price of any commodity futures or commodity and which information has not been made public to impart such information with intent to assist another person, directly or indirectly, to participation in any transaction in commodity futures, any transaction in an actual commodity, or in any transaction of the character of or which is commonly known to the trade as an 'option', 'privilege', 'indemnity', 'bid', 'offer', 'put', 'call', 'advance guaranty' or 'decline guaranty'; and (2) for any person to acquire such information from any Commissioner of the Commission or any employee or agent thereof and to use such information in any transaction in commodity futures, any transaction in an actual commodity, or in any transaction of the character of or which is commonly known to the trade as an 'option', 'privilege', 'indemnity', 'bid', 'offer' 'put', 'call', 'advance guaranty', or 'decline guaranty'."

SEC. 302. Section 4c of the Commodity Exchange Act, as amended (7 U.S.C. 6c), is amended—

(a) By inserting "(a)" after "SEC. 4c.".

(b) By striking paragraph (B) in its entirety and inserting in lieu thereof the following:

"(B) if such transaction involves any commodity specifically set forth in section 2(a) of this Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974, and if such transaction is of the character of, or is commonly known to the trade as, an 'option', 'privilege', 'indemnity', 'bid', 'offer', 'put', 'call', 'advance guaranty', or 'decline guaranty', or".

(c) By adding at the end thereof the following new subsection:

"(b) No person shall offer to enter into, or confirm the execution of, any transaction subject to the provisions of subsection (a) of this section involving any commodity regulated under this Act, but not specifically set forth in section 2(a) of this Act, prior to the enactment of the Commodity Futures Trading Commission Act of 1974, which is of the character of, or is commonly known to the trade as, an 'option', 'privilege', 'indemnity', 'bid', 'offer', 'put', 'call', 'advance guaranty', or 'decline guaranty', contrary to any rule, regulation or order of the Commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall prescribe within one year after the effective date of the Commodity Futures Trading Commission Act of 1974: *Provided*, That any such order, rule, or regulation may be made only after notice and opportunity for hearing: *And provided further*, That the Commission may set different terms and conditions for different markets."

SEC. 303. Section 4a(1) of the Commodity Exchange Act, as amended (7 U.S.C. 6a), is amended by inserting, following the word "straddles" in the last sentence of such paragraph the words "or 'arbitrage'" and by adding the following new sentences at the end of such paragraph: "The word 'arbitrage' in domestic markets shall be defined to mean the same as a 'spread' or 'straddle'. The Commission is authorized to define the term 'international arbitrage'."

SEC. 304. Section 4a(3) of the Commodity Exchange Act, as amended (7 U.S.C. 6a), is amended by deleting the period at the end of the first sentence and adding "as such terms shall be defined by the Commission within ninety days after the effective date of the Commodity Futures Trading Commission Act of 1974 by order consistent with the purposes of this Act: *Provided*, That such terms shall permit the hedging of a person's anticipated production of seed quantities of a commodity and the hedging by the users of products of traded commodities as well as users of the commodities." and by deleting the remainder of paragraph (3): *Provided*, That until the Commission issues regulations defining what constitutes bona fide hedging transactions and positions and such regulations are in full force and effect, such terms shall continue to be defined as set forth in the Commodity Exchange Act prior to its amendment by the Commodity Futures Trading Commission Act of 1974.

SEC. 305. Section 4b of the Commodity Exchange Act, as amended (7 U.S.C. 6b), is amended—

(a) By deleting the word "cotton" where it appears in the last full paragraph of such section, and inserting in lieu thereof the words "a commodity".

(b) By striking the period at the end of such section and adding the following: ": *And provided further*, That such transactions shall be made in accordance with such rules and regulations as the Commission may promulgate regarding the manner of the execution of such transactions."

SEC. 306. Section 5a(6) of the Commodity Exchange Act, as amended (7 U.S.C. 7a), is amended by deleting the semicolon at the end of said subsection and inserting in lieu thereof the following: "and adopted by the Commission;".

SEC. 307. Section 5a(8) of the Commodity Exchange Act, as amended (7 U.S.C. 7a), is amended—

(a) By deleting the words "not been disapproved by the Secretary of Agriculture pursuant to paragraph (7) of section 8a" and inserting in lieu thereof the words "been approved by the Commission pursuant to paragraph (12) of section 5a".

(b) By deleting the word "so", and inserting the words "by the Commission" immediately before the semicolon at the end of such subsection.

SEC. 308. Section 6(b) of the Commodity Exchange Act, as amended (7 U.S.C. 9), is amended—

(a) By striking in the second sentence "a

referee" and inserting in lieu thereof "an Administrative Law Judge".

(b) By striking the word "referee" each other place it appears and inserting in lieu thereof "Administrative Law Judge".

SEC. 309. Section 9(c) of the Commodity Exchange Act, as amended (7 U.S.C. 13), is amended by inserting after "section 4i" the following: "section 4k, section 4m, section 4o, section 17,".

SEC. 310. Section 5108(c) of title 5 of the United States Code is amended by adding after paragraph (11) thereof the following new paragraph:

"(12) The Commodities Futures Trading Commission, subject to the standards and procedures prescribed by this chapter, may place an additional twenty positions in GS–16, GS–17, and GS–18 for purposes of carrying out its functions."

SEC. 311. All operations of the Commodity Exchange Commission and of the Secretary of Agriculture under the Commodity Exchange Act, including all pending administrative proceedings, shall be transferred to the Commodity Futures Trading Commission as of the effective date of this Act and continue to completion. All rules, regulations, and orders heretofore issued by the Commodity Exchange Commission and by the Secretary of Agriculture under the Commodity Exchange Act to the extent not inconsistent with the provisions of this Act shall continue in full force and effect unless and until terminated, modified, or suspended by the Commodity Futures Trading Commission.

SEC. 312. Pending proceedings under existing law shall not be abated by reason of any provision of this Act but shall be disposed of pursuant to the applicable provisions of the Commodity Exchange Act, as amended, in effect prior to the effective date of this Act.

SEC. 313. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 314. The Commodity Exchange Act, as amended, is amended by adding the following new section at the end thereof:

"SEC. 16. (a) The Commission may conduct regular investigations of the markets for goods, articles, services, rights, and interests which are the subject of futures contracts, and furnish reports of the findings of these investigations to the public on a regular basis. These market reports shall, where appropriate, include information on the supply, demand, prices, and other conditions in the United States and other countries with respect to such goods, articles, services, rights, interests, and information respecting the futures markets.

"(b) The Commission shall cooperate with any other Federal agency which makes market investigations to avoid unnecessary duplication of information-gathering activities.

"(c) The Department of Agriculture, Department of State, Department of Commerce, and any other government agency which has market information sought by the Commission shall furnish it to the Commission upon the request of any authorized employee of the Commission. The Commission shall abide by any rules of confidentiality applying to such information.

"(d) The Commission shall not disclose the names of individual companies."

SEC. 315. Section 4g of the Commodity Exchange Act, as amended, is amended by inserting "(1)" after the section designation and by adding the following new subsections:

"(2) Every clearinghouse shall prepare a daily trading report in the form and manner which the Commission prescribes by rule. The daily trading report shall include—

"(A) the time of each trade made on the exchange that day;

"(B) the good, article, service, right, or interest which is the subject of the contract;

"(C) the number of futures contracts involved in each trade;

"(D) the price of the futures contract in each trade;

"(E) the delivery month specified in the futures contract in each trade;

"(F) the identification of the traders involved in each trade; and

"(G) any other information the Commission requires.

"(3) Daily trading reports shall be delivered to the Commission at the time and place it designates. The Commission may disclose daily trading reports, or information from those reports, to the public if, in the determination of the Commission, disclosure will further the regulation of futures trading.

"(4) Before the beginning of trading each day, the exchange shall make public the volume of trading on each type of contract for the previous day and such other information as the Commission deems necessary in the public interest and prescribes by rule, order, or regulation."

SEC. 316. The Commodity Exchange Act, as amended, is amended by adding at the end thereof the following new section:

"SEC. 17. It is unlawful for a futures commission merchant (or any employee thereof) to accept and order from any person to buy or sell any futures contract and for a commodity trading advisor to advise any person to buy or sell a futures contract unless he obtains a signed statement from such person, in such form as the Commission prescribes, which states that the person understands the speculative nature of futures contract trading, the high probability of loss of initial and later investments in futures contracts, and any other information the Commission prescribes."

SEC. 317. The Commodity Exchange Act, as amended, is amended by adding at the end thereof the following new section:

"SEC. 18. (a) The Commission shall establish and maintain, as part of its ongoing operations, research and information programs to (1) determine the feasibility of trading by computer, and the expanded use of modern information system technology, electronic data processing, and modern communication systems by commodity exchanges, boards of trade, and by the Commission itself for purposes of improving, strengthening, facilitating, or regulating futures trading operations; (2) assist in the development of educational and other informational materials regarding futures trading for dissemination and use among producers, market users, and the general public; and (3) carry out the general purposes of this Act.

"(b) The Commission shall include in its annual reports to Congress plans and findings with respect to implementing this section."

SEC. 318. The Commodity Exchange Act, as amended, is amended by adding at the end thereof the following new section:

"SEC. 19. (a) In order to promote the use of forward contracting in the sale and purchase of agricultural commodities (including livestock), the Commission is authorized and directed to encourage and otherwise assist any insurance companies and other insurers which meet the requirements prescribed pursuant to this section to form, associate or otherwise join together in a pool to provide insurance coverage to protect the parties to any forward contract against financial loss resulting from failure of the other party to comply with the terms of the contract for future delivery: *Provided*, That no buyer or seller may be insured under this section with respect to any agricultural commodity contracted for sale through a board of trade as defined in section 2 of this Act.

"(b) In order to promote the effective administration of the forward contracting insurance program and to assure that the objectives of this section are furthered, the Commission is authorized to prescribe appropriate requirements for insurance companies and other insurers participating in such pool including, but not limited to, minimum requirements for capital or surplus or assets.

"(c) The Commission is authorized to enter into agreements with the pool formed or otherwise created under this section to assume not more than 50 per centum of the loss suffered by such pool in any year in excess of premiums collected during the duration of the pool: *Provided*, That the premium charged any insured shall not exceed 2 per centum of the total value of the contract being insured: *Provided further*, That the Commission shall from time to time negotiate with representatives of the pool to establish premiums which the Commission finds will provide profits to the members of the pool necessary to carry out the purposes of this section.

"(d) Any payments made by the Commission as provided in subsection (c) of this section shall be reimbursed from funds of the Commodity Credit Corporation."

SEC. 319. The Commodity Futures Trading Commission shall investigate the need for legislation providing for the registration of future associations. It shall report its findings to the Congress within two years after enactment of this Act.

SEC. 320. The Commodity Futures Trading Commission shall submit to the Congress, not later than June 30, 1976, a report respecting the need for legislation insuring owners of commodity futures accounts and persons handling or clearing trades in such accounts against loss by reason of the insolvency or financial failure of a futures commission merchant carrying such accounts. The report shall contain the recommendations of the Commission concerning the form and nature of any such legislation.

SEC. 321. (a) This Act shall become effective one hundred and eighty days after enactment. Activities necessary to implement the changes effected by this Act may be carried out after the date of enactment and before as well as after the effective date. Activities to be carried out after the date of enactment and before the effective date shall include, but are not limited to, appointment of the members of the Commodity Futures Trading Commission, designation of boards of trade as contract markets, registration of futures commission merchants, floor brokers, and other persons required to be registered under the Act, approval or modification of bylaws, rules, regulations, and resolutions of contract markets, and the necessary steps to regulate futures trading in silver immediately on the effective date of this Act.

(b) Funds appropriated for the administration of the Commodity Exchange Act may be used to implement this Act, and the positions authorized by sections 102 and 310 of this Act may be filled immediately after the date of enactment of this Act.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time that has been used today on H.R. 13113 not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

TELEGRAM OF SENATOR ROBERT C. BYRD TO THE PRESIDENT

Mr. ROBERT C. BYRD. Mr. President, I have today sent the following telegram to the President of the United States:

SEPTEMBER 6, 1974.

The PRESIDENT,
The White House,
Washington, D.C.:

I compliment you on the conduct and progress of the first of the economic summit meetings. The meeting which was held yesterday, and which was attended by several of the Nation's top economists, supports the viewpoint which I expressed at the White House during your recent meeting with Congressional leaders, when I stated my belief that some form of standby wage and price stabilization authority should not be ruled out. The overwhelming majority of the economists at the meeting yesterday appeared to support this viewpoint.

I, therefore, urge that you not rule out the consideration of such standby authority. I strongly urge that wage and price guidelines be established as soon as possible, with initial reliance on voluntary compliance, but with mandatory standby controls as a backup element in the attack on inflation. Any such guidelines should guarantee equity to wage earners in view of the fact that wage demands during the past 18 months have been restrained, the result being that wages have not kept pace with rapidly increasing prices.

I also urge that energy conservation steps be initiated in view of the fact that spiralling energy costs have contributed greatly to inflationary pressures. The continuing possibility of curtailment, or increased costs, of foreign oil supplies cannot be overlooked in the effort to control inflation. If such a possibility should become a reality, the impact on our already serious problem of inflation would be disastrous. In my judgement, your strong leadership is needed to make the American people clearly aware that the energy problem has not gone away and that any successful attack on inflation will require the conservation of energy resources, and the development of new energy resources through adequately funded research programs.

I urge that action be taken immediately, through the Federal Reserve Board, to relax high interest rates so as to encourage home building. Young people in today's tight money market, can no longer hope to purchase a home, and every action should be taken to encourage increased deposits in savings institutions that provide home mortgages.

I urge, additionally, that action be taken in concert with other industrial nations suffering from inflation in order that a common effort among free world powers can be mounted against worldwide inflation.

Moreover, I would urge that aggressive action be taken promptly to deal with present, and projected worsening of raw materials shortages, such raw materials being necessary to increase productivity in our country, which in turn would beneficially ease upward pressures on costs of finished products. In the face of quadrupled costs of oil in the past year, many developing nations are following the lead of Mid-Eastern oil-producing countries and are increasing the prices of scarce minerals and other raw materials, such as chrome, manganese, copper, tungsten, bauxite—all of which are necessary to the continued functioning of American industry and the production of American consumer goods.

Finally, Mr. President, I respectfully urge that, in keeping with your previous open, candid, and honest public statements, you frankly outline to the American people the dimensions of the dual problem of inflation and stagnation, and that they be clearly apprised of the sacrifices that will have to be made by every citizen in order to restore equilibrium to the economy and basic confidence in the economy.

I present the foregoing suggestions in the hope that they will be helpful in combatting the Nation's No. 1 problem, and I assure you of my support for your aggressive leadership and prompt actions along the lines I have proposed.

ROBERT C. BYRD,
U.S. Senator.

ORDER FOR RECOGNITION OF SENATOR ROBERT C. BYRD AND SENATOR GRIFFIN ON MONDAY AND FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND CONSIDERATION OF H.R. 13113

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, after the two leaders or their designees have been recognized on Monday next under the standing order, the junior Senator from West Virginia (Mr. ROBERT C. BYRD) be recognized for not to exceed 15 minutes, and that he be followed by the assistant Republican leader (Mr. GRIFFIN) for not to exceed 15 minutes; after which there be not in excess of 15 minutes for the transaction of routine morning business, with statements limited therein to 5 minutes each; at the conclusion of which then, in accordance with the distinguished majority leader's earlier statement, the Senate resume consideration of H.R. 13113, an act to amend the Commodity Exchange Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO TEMPORARILY LAY ASIDE S. 707

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the unfinished business, S. 707, be temporarily laid aside on Monday at the conclusion of routine morning business, and that it remain in a temporarily laid aside status until the close of business on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOHN O. MARSH, COUNSELOR TO THE PRESIDENT

Mr. HARY F. BYRD, JR. Mr. President, I very much favor the comments of the people of the Seventh Congressional District of Virginia on the appointment of John O. Marsh, Jr., by President Ford to be counsellor to the President.

Mr. Marsh is well known throughout the Seventh Congressional District. He served as a Member of the House of Representatives of that district for 8 years.

Incidentally, the Seventh Congressional District has had only four Members to represent it in the House of Representatives during the past 40 years.

In 1933 the late A. Willis Robertson was elected Congressman from that district and served in the House until he was elected to the Senate in 1946.

He was succeeded by the late Burr Powell Harrison, of Winchester, who served from 1946 until his voluntary retirement in January of 1963.

It was at that time that John O. Marsh, Jr., became the Seventh District Representative and served until he voluntarily relinquished that office in January of 1971.

Since then the district has been represented by J. KENNETH ROBINSON, of Winchester, an able and excellent Representative for the people of the Shenandoah Valley.

As a longtime chosen friend of John O. Marsh, Jr., I was pleased that the President selected him as his counselor.

The Clarke Courier, a paper published in Berryville, Va., carried in its columns of August 29, 1974, an excellent profile on former Congressman Marsh.

The article was written by Dean Levi, a top reporter for the Richmond News-Leader. The article first appeared in the Richmond newspaper and then was republished in the Clarke Courier.

It gives a good insight into the workings of a top official in the White House, and it gives a good insight into Mr. Marsh.

I ask unanimous consent that this article by Dean Levi, first published in the Richmond News-Leader, and then subsequently in the Clarke Courier, be published at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MARSH ONE OF THE NEW BOYS ON THE BLOCK

(By Dean Levi)

WASHINGTON.—An orange-hued, early morning sun forecast another breezeless and withering day for the nation's capital.

It was 7:45 a.m. as the 48-year-old former Virginia congressman strolled into the White House and to his office, just a few steps from President Ford's Oval Office and the offices of Secretary of State Henry E. Kissinger and Gen. Alexander M. Haig, White House staff chief.

John Otho Marsh Jr., named earlier this month by Ford as his counselor, wore a rumpled-looking gray suit and a conservative club tie.

BRIEF CALL ON PRESIDENT

He paid his customary call on the New President, who already had begun his day's work.

"I just wanted guidance on some personnel questions that had come to me," said Marsh. The meeting Thursday lasted about three minutes.

Marsh, a former four-term congressman from the 7th District, now lives in Arlington with his wife and three children. But he still calls a log cabin deep in the Shenandoah Valley near Strasburg his home.

On Wednesday night, he and Mrs. Marsh had attended a dinner party at the White House at the invitation of the President for the cabinet; Ford's senior staff members, and vice president-designate, Nelson Rockefeller.

Lying on a sofa in Marsh's office was a copy of the Washington Post. The newspaper had a picture of the Marshes as they entered the mansion.

No sooner had Marsh popped into his two-room office in the West Wing than he popped back into the hallways again. Seconds later, Haig walked in looking for the President's assistant.

BREAKFAST WAITS

Marsh's breakfast of fried eggs and toast, brought in on a tray from the White House kitchen, grew cold; the orange juice grew warm.

Marsh had no time for a bite.

Navy Cmdr. Howard J. Kerr, his military assistant and a former aide to Vice President Spiro T. Agnew, pored over a stack of papers. Kerr also answered at least a dozen telephone calls.

Marsh finally got down to the day's business at his desk, actually an oblong table. On hand was a North Carolina native, Dr. Theodore C. Marrs, special assistant to the President.

Marsh grinned at Kerr.

"I was going to see General Haig, but the President had called for him, and I think he out-ranks us."

TWO SECRETARIES BUSY

Marsh first took care of some correspondence. Two secretaries were pounding away on typewriters in the outer office.

Dr. Marrs made a call.

"We need a briefing for Jack Marsh for jobs to be filled—the high level and low levels . . .

"Now, I want you to shine, damn it," said Dr. Marrs to the listener on the other end.

For the next couple of hours, the pace was hectic, but not frantic.

Marsh and Haig finally got together.

COLD EGGS REMOVED

A White House staffer removed the tray and cold eggs.

Secretaries poured coffee.

The telephone rang, seemingly every few seconds.

And Marsh gave orders.

"Let's go ahead and get the briefing."

"Hey, get Sue back in here."

"We have made a note of your interest . . .," he said, in dictating a letter.

"I'LL GET BACK TO YOU"

He answered a call. Hunched over the telephone, with his hand to his forehead, he told the caller:

"Well, listen. Let me work on this and see what I can do. I'll get back to you, but I've got a feeling he isn't going to start."

And to Kerr: "That's gonna be a tough one."

And to a reporter: "I just take this box home with me every night." He referred to a large office box he held on his lap, filled with papers, papers and papers.

"That goes to the President," he told Kerr. "Would you write to that fella? I've got to get some of those calls off today."

And he kidded a visitor to his office: "We're Virginia-izing everybody in here. I tell 'em all the rest of the 49 states joined Virginia and that's how the Union came about.

PAPERS ON THE FLOOR

Marsh moved to a chair and papers began littering the floor.

"These are two items I've got to show the President when I go in and see him."

At 10:30 a.m., Marsh left his office for a meeting, in the Roosevelt Room, a few steps away.

Marsh, who was nominated by former President Nixon as an assistant secretary of state, has a framed picture of Nixon on his office wall. He also has one of President Ford: "To my very good friend . . . in appreciation and with best wishes . . ." says the inscription.

Marsh's offices are comfortable, although somewhat small. The wall trim is a Williamsburg blue, nearly matching the wall-to-wall carpeting. He works under an eight-arm brass chandelier.

LINCOLN AND LEE

There are busts of Lincoln and Robert E. Lee on bookshelves and a picture of his three children is prominently displayed. A brass candlestick stands on his table-desk, while a coffee table is the focal point for a sofa and three easy chairs.

Who is Marsh?

(As he put it: "John Who?")

President Ford tells it in part. Framed is this citation: ". . . Reposing special trust and confidence in your Integrity, Prudence and Ability, I do appoint you counselor to the President of the United States of America. This 10th day of August, 1974."

Marsh grew up in Harrisonburg and was president of his high school senior class. He was an infantryman in World War II and was commissioned a second lieutenant when he was 19.

SPEEDED-UP COURSE

He took pre-law and received his law degree from Washington and Lee University in an accelerated program which took him four years.

"I was just a country lawyer," he said in his flat-sounding Valley accent. "I just wanted to practice law in a small town."

He picked Strasburg in 1952. He picked politics a few years later.

Marsh served four terms as a Democratic congressman from the conservative Seventh District. Then, in 1970, he announced that he would not seek re-election and would open a law office.

NOMINATION BY NIXON

Two years later, Nixon nominated Marsh as assistant secretary of defense for legislative affairs. The Senate confirmed the nomination in April 1973.

Last January, Ford, then vice president, asked Marsh to join his staff.

At noon yesterday, the meeting ended and Marsh was hungry.

"I'll have cottage cheese and tomatoes with Thousand Island dressing," he told his assistant.

Marsh appears to keep himself under tight rein, but he has a vast storage of nervous energy. He keeps within his weight and tries to jog two miles after work. On the outside, he appears to be as casual as an old comfortable tweed coat.

"The biggest problem," he said, "is returning those phone calls. I dial most of my calls."

"SOME RESPONSIBILITY"

And of his job, in somewhat of an understatement: "I stay fairly busy, and there's some responsibility with it.

"We're new boys on the block here."

It was late afternoon when Marsh conferred with President Ford a second time. This time it was about a speech Ford was to give at the University of Ohio.

But before Marsh and the President got down to business, Ford said he hoped to "attend a couple of Redskins (football) games this season if they don't walk off the field." (His reference was to a professional football players' strike.)

SECURITY MAN EVIDENT

Outside Ford's office, in the rose garden, a security man, dressed neatly in a suit, paced back and forth, a two-way radio in his hand. The President's secretary ate her lunch, brought in on a tray, in the anteroom.

Back in his own office, Marsh asked Kerr the time of Secretary of State Kissinger's stag party in the Old Executive Office for Saudi Arabi's minister of state for foreign affairs.

"Eight o'clock: that's good. It'll give me a chance to go home. . . ."

The telephone rang, again.

On a shelf near his desk was a book on swimming pools. Ford wants one, and he's been getting a lot of publicity on the subject.

It had been Marsh's job to "get the people together about that pool and, then, turn it over to General Haig."

QUORUM CALL

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NUNN). Without objection, it is so ordered.

PROGRAM

Mr. MANSFIELD. Mr. President, responding further to the Senator from Michigan, there is a time limitation on the bill H.R. 13113 which has been mutually agreed to all around. It will be followed by Calendar No. 1067, H.R. 6395, which has to do with the Okefenokee National Wildlife Refuge in Georgia.

That will be followed by the Big Cypress National Preserve, Calendar No. 1077, H.R. 10088.

It is hoped that if those bills are out of the way on Monday, it will be possible to take up Calendar No. 1086, S. 3280, a bill to amend the Public Health Service Act and related laws, to revise and extend programs of health revenue sharing and health services, and for other purposes.

Then there will be, on Tuesday next, the military construction bill, Calendar No. 1084, H.R. 16136.

On Wednesday, the highway construction bill, Calendar No. 1063, S. 3934, will be considered.

Somewhere along the way, we shall turn to consideration of Calendar No. 1070, S. 3838, a bill to authorize the regulation of obligations issued by financial institution holding companies, and for other purposes.

Also we shall consider Calendar No. 1085, Senate Resolution 391, a resolution relating to the President's committee on food and the continuing serious nature of the supply, demand and price situation of fertilizer, farm chemicals, and fuels and energy—especially natural gas—used by food and agriculture industries.

I believe that on Monday or Tuesday, the Committee on Appropriations will meet to mark up the HEW appropriation bill, and we hope to get that considered by the Senate later in the week.

While I have been definite on what would follow what, I hope that the Senate will allow the joint leadership a little flexibility so that, depending on the situation at any given time, we may take up any of this legislation.

Mr. GRIFFIN. For example, it may depend on what happens to the amendment and the possible motion to recommit on the copyright bill, I suppose.

Mr. MANSFIELD. That is true. And if that motion is brought up and fails, then we shall have to push the program somewhat ahead.

However, I have just thought of something. I remember the distinguished Senator from Arizona (Mr. GOLDWATER) indicating that there was a primary election in his State on Tuesday next, but that he would be very much interested in the military construction bill; so that might have to wait until Wednesday. Anyway, because of his interest in that bill, unless he gives us his approval, we would keep his situation in mind; but I would appreciate it if the Republican leader would find out what the wishes of the Senator from Arizona are in this respect, and we can work out something next week.

Mr. GRIFFIN. I will be glad to do that.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished majority leader yield?

Mr. MANSFIELD. Yes, indeed.

Mr. ROBERT C. BYRD. This question is directed also to the distinguished assistant Republican leader. Would it be feasible to think in terms of votes on Tuesday after the hour of, say, beginning at 5 o'clock or 5:30, or 6 o'clock? It seems to me that in the colloquy yesterday or the day before between Mr. PASTORE, Mr. GOLDWATER, and the majority leader, there was something said to the effect that votes could be held circa 6 o'clock p.m., so that Senators who had been away for the elections in various areas could very possibly be back in time to vote.

Mr. GRIFFIN. It is my impression that that would be all right. I think we might proceed on that assumption. Of course, there are Members on both sides of the aisle, I would suspect, who are affected by the primary election situation.

Mr. ROBERT C. BYRD. I thank both leaders.

Mr. MANSFIELD. Do I understand correctly that it might be possible for the Senator from Arizona (Mr. GOLDWATER) to get back later that day?

Mr. GRIFFIN. Later that day, that is correct.

Mr. MANSFIELD. That is about it as far as the calendar is concerned. I want to commend the Senate and all its Members for the cooperation, accommodation, and understanding they have shown, and for helping to keep the calendar as clean as it is at this time.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished majority leader again yield?

Mr. MANSFIELD. Yes.

Mr. ROBERT C. BYRD. I think it is generally understood that there will be a vote on the motion to invoke cloture on the consumer protection bill on Thursday, the 19th.

Mr. MANSFIELD. That is correct.

Mr. ROBERT C. BYRD. I understand from the journal clerk that that has not definitely been tied down already by unanimous consent. Should we think of doing that now?

Mr. MANSFIELD. Yes, just to make it certain. We really do not have to ask, but I shall.

First, I wish to notify the Senate that a cloture motion will be filed on Tuesday, September 17, and that the vote on the cloture motion will occur on the 19th, without fail.

That is about it. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I would point out for the RECORD that a unanimous consent agreement has been entered into today under which an amendment offered by the distinguished Senator from North Carolina (Mr. ERVIN) will be voted on at 3 o'clock on Monday next. If that amendment fails, it will be followed immediately by a vote on a motion to recommit—consent has been granted by the Senate to that effect—and beginning at the hour of 2 o'clock, there will be a disposition of the time between the Senator from North Carolina (Mr. ERVIN) and the Senator from Rhode Island (Mr. PASTORE), on the one hand, and the chairman of the Committee on Appropriations (Mr. MCCLELLAN) on the other. That has been agreed to unanimously by the Senate.

Mr. GRIFFIN. Mr. President, will the majority leader yield?

Mr. MANSFIELD. I yield.

Mr. GRIFFIN. I have no personal interest in this myself, but just for clarification and the possible edification of the membership, it is not also possible, whether or not it may happen, as I have understood the colloquy, that a motion to recommit could be made in advance of the 3 o'clock vote, and conceivably we could have a vote before that?

Mr. MANSFIELD. That is correct.

Mr. GRIFFIN. I think Senators might at least be cautioned on that point.

Mr. MANSFIELD. That is right. All I was stating was what had actually been granted in the form of a unanimous consent agreement.

Mr. GRIFFIN. Yes. I thank the Senator.

ADJOURNMENT TO 10 A.M. MONDAY, SEPTEMBER 9, 1974

Mr. HARRY F. BYRD, JR. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. Monday next.

The motion was agreed to; and at 12:44 p.m. the Senate adjourned until Monday, September 9, 1974, at 10 a.m.

SENATE—*Monday, September 9, 1974*

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

With the Psalmist we pray:

"Unto Thee, O Lord, do I lift up my soul. Good and upright is the Lord: therefore will He teach sinners in the way. The meek will He guide in judgment; and the meek will He teach His way. All the paths of the Lord are mercy and truth unto such as keep His covenant and His testimonies."—Psalms 25: 1, 8–10.

Grant us, O Lord, open minds to Thy Spirit that we may discern Thy will and be guided into the truth. In knowing the truth may we follow it at all cost for the well-being of this Nation and for the rule of righteousness on the Earth.

Through Him who is the Way, the Truth, and the Life. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, September 6, 1974, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

WAIVER OF CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VIII, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EQUAL JUSTICE UNDER THE LAW?

Mr. MANSFIELD. Mr. President, on yesterday, President Gerald Ford announced his decision to grant a "full, free, and absolute pardon unto Richard Nixon for all offenses against the United States which he, Richard Nixon, has committed or may have committed or taken part in during the period from January 20, 1969, through August 9, 1974."

I recognize, under the Constitution, that this is a decision for the President and the President alone to make. A pardon is not given to clear an innocent man but is given for the purpose of mitigating guilt. Otherwise, why a pardon? I am certain that President Ford, in granting this pardon to former President Nixon, did so on the basis of what he thought